

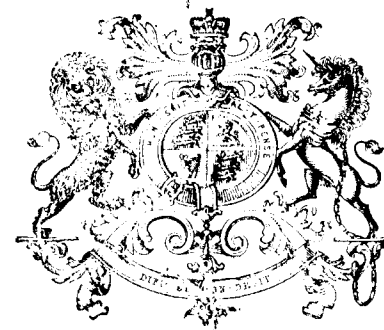
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The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 14, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

The Fiftieth Annual General Meeting of Subscribers of the above Institution will be held in the Town Hall, on Saturday, the 28th January, 1888, at 3 P.M., to receive the report of the Directors and to consider such matters as may then be submitted.

By order of the Directors,

W. H. RYLAND,

Secretary.

CALCUTTA.

The 29th December, 1887.

PROMISSORY NOTES.

Lost.

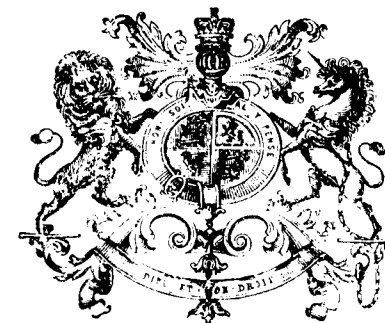
The Government Promissory Notes, Nos. 090783,* for ₹3,000, 060874,† for ₹500, 060875,† for ₹500, 033952,* for ₹500, 033953,* for ₹500, and 033954,* for ₹500, of the 4 per cent. of 1865 and 1854-55, respectively, aggregating ₹5,500, originally standing in the names of Kedar Nath and Mooltan Chund, respectively, and last endorsed to Kedar Nath, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

* In the name of Kedar Nath.

† In the name of Mooltan Chund.

MAHABIR PRASAD,

Miyan Bazar, Gorakhpur.



The Gazette of India.

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CALCUTTA, SATURDAY, JANUARY 21, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Dissolution of Partnership.

Messrs. White and Priestly, Sculptors, Artists and General Contractors, Cawnpore, North-Western Provinces :—partnership dissolved the 2nd January, 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes, Nos. 090783,* for ₹3,000, 060874,† for ₹500, 060875,† for ₹500, 033952,* for ₹500, 033053,* for ₹500, and 033954,* for ₹500, of the 4 per

* In the name of Kedar Nath.

† In the name of Mooltan Chund.

cent. of 1865 and 1854-55, respectively, aggregating ₹5,500, originally standing in the names of Kedar Nath and Mooltan Chund, respectively, and last endorsed to Kedar Nath, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

MAHABIR PRASAD,

Miyan Bazar, Gorakhpur.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 28, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

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By order of the Directors,

W. H. RYLAND,

Secretary.

CALCUTTA,
The 29th December, 1887.

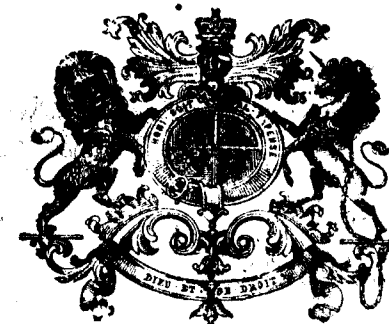
PROMISSORY NOTES.

Lost.

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* In the name of Kedar Nath.
† In the name of Mooltan Chund.

MAHABIR PRASAD,
Miyan Bazar, Gorakhpur.



*Copy
17/2/88*

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 4, 1888.

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PART III.

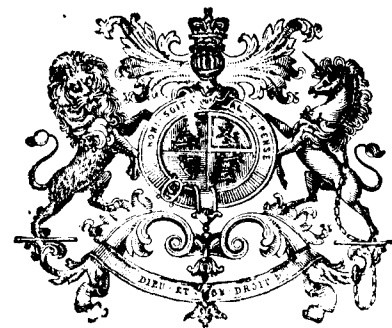
Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Mr. Augusto Consolo is authorised to sign our firm from this date.

THOMAS WATSON & Co.

CALCUTTA,
The 1st February, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 18, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Abstract Statement of Receipts and Disbursements of the Uncovenanted Service Family Pension Fund for the Fourth Quarter ending 30th April 1887, compared with the corresponding quarter of the year 1886.

PARTICULARS.	For the 4th quarter ending 30th April 1887.			For the 4th quarter ending 30th April 1886.			Increase.			Decrease.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Balance at credit of the Fund on the Government books at the end of the previous quarter	86,48,843	12	10	92,24,885	11	5	4,23,953	1	5			
ADD RECEIPTS—												
Subscriptions from February to April 1887, Widows' Fund ...	1,23,661	13	9	1,21,935	2	6	1,726	11	3			
Ditto ditto, Children's Fund ...	83,382	2	0	80,671	7	7	2,710	11	2			
Charges General (account fine realized and transferred to this account)	2,349	0	6				2,349	0	6			
Entrance fees, &c.	466	8	6	551	3	0				84	10	6
Amount of fines imposed under rule 40A	4	7	4	38	11	0				34	3	8
Amount of interest received from Government of India for 1886-87	5,72,828	10	3	5,46,435	0	8	26,393	9	7			
Amount of pension received with interest from Government of India for sums advanced to widows and orphans who came upon the Fund during the Mutiny of 1857	2,454	8	0	2,961	2	0				506	10	0
Amount of divisible surplus transferred to debit of subscribers				1,247	4	0				1,247	4	0
Total Receipts	7,85,147	3	1	7,53,839	14	9	(a) 33,180	0	6	1,872	12	2
Grand Total	1,04,33,990	15	11	99,78,725	10	2	4,57,138	1	11	1,872	12	2
DEDUCT PAYMENTS—												
Pensions payable to incumbents in the Widows' Fund ...	83,807	13	0	89,244	6	2	4,653	6	10			
Ditto ditto, Children's Fund ...	65,319	8	3	62,065	6	6	3,261	1	9			
Establishment, including house-rent and contingencies ...	8,927	7	11	8,731	8	9	195	15	2			
Loss in exchange on remittances to England	17,991	3	7	14,319	7	6	3,671	12	1			
Amount of fines transferred to Charges General	2,349	0	6	0	0	0	2,349	0	6			
Amount of divisible surplus written back				48	0	0				48	0	0
Total Payments	1,88,485	1	3	1,74,401	12	11	(b) 14,131	4	4	48	0	0
Net balance in favour of the Fund	1,02,45,505	14	8	98,04,323	13	8	(c) 4,43,006	13	7	1,824	12	2
Proportion of divisible surplus passed to subscribers	59,760	3	0	57,529	0	0	2,231	3	0			
	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.
Number of subscribers	1,518	1,022	1,530	1,025	...	...	...	...	12	3	...	...
Ditto of incumbents	451	670	422	632	29	38	...	...	...	...	...	...
Ditto of subscribers sharing abatements	1,162	776	1,116	766	36	20	...	...	...	...	...	...

(a) Net increase in Total Receipts 31,307 4 4
(b) Ditto in Payments 14,083 4 4
(c) Ditto in Balance 4,41,182 1 5
G. W. MACLEOD. }
Accountant. R. A. FINK, }
H. RONALDSON, } Auditors.

Published by order of the Directors.
W. H. RYLAND, Secretary,
Uncovenanted Service Family Pension Fund.

UNCOVENANTED SERVICE FAMILY PENSION
FUND OFFICE, the 17th January 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes Nos. 162825 and 244329, of the 4 per cent. loans of 1842-43 and 1st May, 1865, respectively, for ₹1,000 each, originally standing in the names of the Bank of Bengal and Rustomjee Ardasir Daver, and blank endorsed to Framjee Aderjee Mistry, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

FRAMJEE ADERJEE MISTRY,
Care of Messrs. P. M. Mody & Co.,
Appollo Street,
Fort Bombay.

Lost.

The following Promissory Notes of 4 per cent. loan of 1842-43 and 1865, originally standing in the name of the undersigned, and of 4½ per cent. loan of 1870, originally standing in the name of Bank of Bengal and purchased from the above Bank, have never been endorsed by me to any body, have been lost on the 17th August, 1887. Payment of the notes or of the interest accrued thereon has been stopped and application is about to be made for the issue of duplicates:—

No. 014724* of the 4½ per cent. loan of 1870, for ₹1,000.

No. 111539† of the 4 per cent. loan of 1842-43, for ₹1,000.

No. 237876† of the 4 per cent. loan of 1865, for ₹2,000.

* In the name of the Bank of Bengal.

† In the name of Luchman Chowdry.

LUCHMAN CHOWDRY,
Naiki Mundi, Agra.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 25, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes Nos. 162825 and 244329, of the 4 per cent. loans of 1842-43 and 1st May, 1865, respectively, for ₹1,000 each, originally standing in the names of the Bank of Bengal and Rustomjee Ardasir Daver, and blank endorsed to Framjee Aderjee Mistry, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

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No. 111539† of the 4 per cent. loan of 1842-43, for ₹1,000.

No. 237876† of the 4 per cent. loan of 1865, for ₹2,000.

* In the name of the Bank of Bengal.

† In the name of Luchman Chowdry.

LUCHMAN CHOWDRY,
Naiki Mundi, Agra.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 3, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The following Promissory Notes of 4 per cent. loan of 1842-43 and 1865, originally standing in the name of the undersigned, and of 4½ per cent. loan of 1870, originally standing in the name of Bank of Bengal and purchased from the above Bank, have never been endorsed by me to any body, have been lost on the 17th August, 1887. Payment of the notes or of the interest accrued

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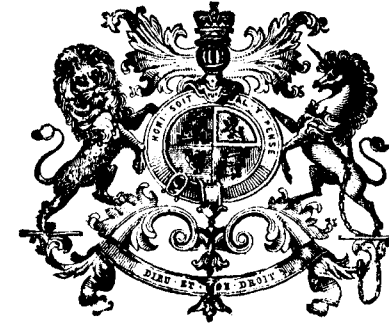
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No. 237876† of the 4 per cent. loan of 1865, for Rs. 2,000.

* In the name of the Bank of Bengal.

† In the name of Luchman Chowdry.

LUCHMAN CHOWDRY,
Naiki Mundi, Agra.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 10, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

HINDU FAMILY ANNUITY FUND.

Resolution of the Subscribers passed at the General Meeting held on 28th January, 1888.

That the Directors be authorised to draw in the manner provided in Rule 65 Rupees (10,483) ten thousand four hundred and eighty-three only, during the year 1888-89 from the Deposit Account with the Government of India.

RAMAPRASANNA GHOSH,

Secretary.

CALLY CHARAN GHOSE,

Chairman.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 072756, of the 4½ per cent. loan of 1879, for

₹500, originally standing in the name of the Bank of Bengal, Note No. 079105, of the 4½ per cent. loan of 1879, for ₹500, originally standing in the name of William Watson & Co., and Notes Nos. 082145 and 082149 of the 4½ per cent. loan of 1879, for ₹100 each, originally standing in the name of Rustomjee Arderseer, and last endorsed to E. H. Hearn, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

WILLIAM WATSON & CO.,

28, Appollo Street, Bombay,

Agents for E. H. Hearn,

of Post Panwell.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 17, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Take notice that Mr. John Edward Williams has been appointed Agent and General Manager of the Assam Railways and Trading Company, "Limited," and Reduced in India and Mr. Ferdinand Beauclerk's Agency terminated and his power of attorney was cancelled on the 23rd January, 1888.

W. BARTON WRIGHT,
Managing Director.

PROMISSORY NOTES.

Lost.

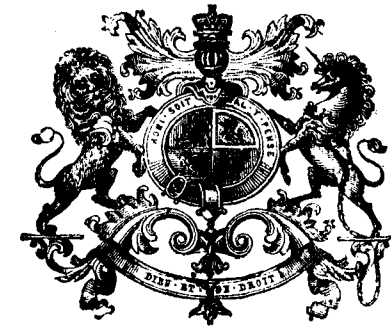
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WILLIAM WATSON & CO.,

28, Appollo Street, Bombay,

Agents for E. H. Hearn,
of Post Panwell.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 24, 1888.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Take notice that Mr. John Edward Williams has been appointed Agent and General Manager of the Assam Railways and Trading Company, "Limited," and Reduced in India and Mr. Ferdinand Beauchamp's Agency terminated and his power of attorney was cancelled on the 23rd January, 1888.

W. BARTON WRIGHT,
Managing Director.

PROMISSORY NOTES.

Lost.

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interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

WILLIAM WATSON & CO.,
28, Appello Street, Bombay,
Agents for E. H. Hearn,
of Post Panwell.

Lost.

The Government Promissory Note No. 175673, of the 4 per cent. loan of 1865, for ₹500, originally standing in the name of Tullockchund Hurnathjee, and last endorsed to Hurrikisson Buldeo, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

HURRIKISSON BULDEO,
Opposite Bhuleshwar Market, No. 3,
in the Vajeshanker Gawrishanker's Firm,
Bombay.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 31, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Take notice that Mr. John Edward Williams has been appointed Agent and General Manager of the Assam Railways and Trading Company, "Limited," and Reduced in India and Mr. Ferdinand Beauclerk's Agency terminated and his power of attorney was cancelled on the 23rd January, 1888.

W. BARTON WRIGHT,
Managing Director.

PROMISSORY NOTES.

Lost.

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Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

HURRIKISSON BULDEO,
*Opposite Bhulashwar Market, No. 3,
in the Vajeshanker Gawrishanker's Firm,
Bombay.*

Destroyed by Fire.

The Government Promissory Note, No. 247858, of the 4 per cent. loan of 1865, for ₹500, originally standing in the name of Hurro Soondary, the proprietress, by whom it was never endorsed to any other person, having been destroyed by fire, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietress.

HURRO SOONDARY,
Hurrinavi, 24-Pergunnahs.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 7, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 175673, of the 4 per cent. loan of 1865, for Rs500, originally standing in the name of Tullockchund Hurnathjee, and last endorsed to Hurrikisson Buldeo, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

HURRIKISSON BULDEO,
Opposite Bhuleshwar Market, No. 3,
in the Vajeshanker Gawrishanker's Firm,
Bombay.

Destroyed by Fire.

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HURRO SOONDARY,
Hurriavi, 24-Pergunnahs.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 14, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Abstract Statements of Receipts and Disbursements of the Uncovenanted Service Family Pension Fund for the First Quarter ending 31st July 1887, compared with the corresponding quarter of the year 1886:

PARTICULARS.	For the 1st quarter ending 31st July 1887.			For the 1st quarter ending 31st July 1886.			Increase.			Decrease.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Balance at credit of the Fund on the Government books at the end of the previous quarter	1,02,45,605	14	8	98,04,323	13	3	4,41,182	1	5			
ADD RECEIPTS—												
Subscriptions from May to July in the Widows' Fund	1,24,942	6	9	1,23,770	14	6	1,171	8	3			
Ditto Children's Fund	84,152	11	9	83,416	15	9	1,035	12	0			
Entrance fees, &c.	624	8	0	45	5	5	219	2	7			
Amount of interest on arrear subscriptions										7	6	6
Amount of fines imposed under rule 40A	388	7	0	486	9	5				98	2	5
Total Receipts	2,10,408	1	6	(a) 2,08,087	3	7	2,426	6	10	105	8	11
Grand Total	1,04,55,914	0	2	1,00,12,411	0	10	4,43,508	8	3	105	8	11
DISBURSEMENTS—												
Pensions to incumbents in the Widows' Fund	94,891	11	8	89,373	7	5	5,519	4	3			
Ditto Children's Fund	64,133	10	8	62,350	10	8	3,783	0	0			
Establishment, including house-rent and contingencies	10,044	13	11	10,099	8	9				54	10	10
Loss in exchange on remittances to England	17,928	2	7	17,646	7	8	223	10	11			
Amount of divisible surplus passed to qualified subscribers of over 5 years' standing in the Widows' Fund	2,16,043	12	0	1,42,223	4	0	73,819	8	0			
Ditto Children's Fund	1,25,121	12	0	96,817	8	0	28,304	4	0			
Total Disbursement	5,31,151	14	10	4,18,569	14	6	(b) 1,11,646	11	2	54	10	10
Balance in favour of the Fund	99,25,762	1	4	95,93,851	2	4	(c) 3,31,961	13	1	50	14	1
Proportion of divisible surplus passed to subscribers of over 5 years standing	85,288	14	0	59,730	3	0	25,528	11	6			
	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.
Number of subscribers	1,529	1,023	1,537	1,021		1		8				
Ditto of incumbents	452	688	429	645	23	43						
Ditto of subscribers sharing abatements	1,166	787	1,152	776	13	11						

(a) Net increase in Total Receipts 2,320 13 11
(b) Ditto in Total Disbursements 1,11,592 0 4
(c) Ditto in balance in favour of the Fund 3,31,961 15 0

G. W. MACLEOD.
Accountant.

R. A. FINE,
JAMES BELL, } Auditors.

Published by order of the Directors,
W. H. RYLAND, Secretary,
Uncovenanted Service Family Pension Fund.
(1369—1)

UNCOVENANTED SERVICE FAMILY PENSION
FUND OFFICE, the 29th March 1888.

PROMISSORY NOTES.**Destroyed by Fire.**

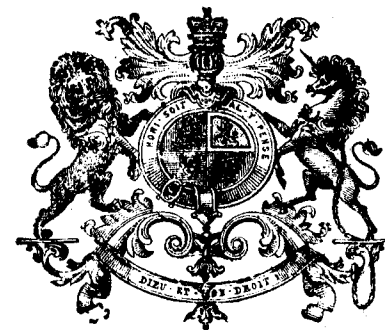
The Government Promissory Note, No. 247858, of the 4 per cent. loan of 1865, for Rs 500, originally standing in the name of Hurro Soondary, the proprietress, by whom it was never endorsed to any other person, having been destroyed by fire, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietress.

HURRO SOONDARY,
Hurriavi, 24-Pergunnahs.

Stolen.

On the 6th April, 1888, the Government Promissory Notes, No. 117404 of 1842-43 and Nos. 225212 and 225213 of 1865, all 4 per cent., for Rs 500 each, originally standing in the name of the Bank of Bengal, and last endorsed to Mrs. E. S. Adams, the proprietress, by whom it was never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of duplicates in favour of the proprietress, after two years from date of last advertisement.

E. S. ADAMS,
*No. 4, Clyde Road,
Hastings.*



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 21, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

IN THE COURT OF SMALL CAUSES
AT DELHI.

WITH POWERS UNDER CHAPTER XX OF
ACT 14 OF 1882.

Case No. 5 of 1888.

Whereas the Delhi and London Bank, Limited, of Delhi petitioned this Court that Sheikh Mohamed Ibrahim, Merchant of Delhi, be adjudicated an insolvent and whereas the said Bank has satisfied this Court that the statements made in its application are substantially true, the Court has declared Sheikh Mohamed Ibrahim, son of Wulli Mohamed of Delhi, an insolvent, under the provisions of Section 351, Civil Procedure Code, and this notice is published as required by Section 351, Civil Procedure Code.

Given under my hand and the seal of the Court this 26th day of March, 1888.

MANOHURLAL,

Judge, Small Cause Court, Delhi.

PROMISSORY NOTES.

Lost.

A Provincial Debenture of the Hathras Mathra Railway Loan, No. 000086, for Rs. 1,500, belonging to Debi Das Joti Parshad, has been lost.

JOTI PARSHAD,

Rayees, Hathras,

Zila Aligarh.

Lost.

The Government Promissory Note No. 000055, of the 4 per cent. loan of 1828-29, for

Rs. 200, originally standing in the name of Panchanun Bysack, and last endorsed to Okhoyloll Kur and Amritaloll Kur, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note, and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

CHARU CHANDRA MITRA,

No. 21, Sustytollah Lane,

Narikeldanga, Calcutta.

Lost.

The lower half of the Government Promissory Note No. 203852 of the 4 per cent. loan of 1865, for Rs. 500, originally standing in the name of Mutty Lall Burrall, and last endorsed to the Delhi and London Bank, Limited, the proprietors, by whom it was never endorsed to any other person, having been lost or destroyed, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

T. LONGMUIR,

Manager, Delhi and London Bank, Limited,

Calcutta.

The 18th April, 1888.

Stolen.

On the 6th April, 1888, the Government Promissory Notes, No. 117404 of 1842-43 and Nos. 225212 and 225213 of 1865, all 4 per cent., for Rs500 each, originally standing in the name of the Bank of Bengal, and last endorsed to Mrs. E. S. Adams, the proprietress, by whom it was never endorsed to any other person. Payment of the above notes and the interest thereupon

have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of duplicates in favour of the proprietress, after two years from date of last advertisement.

E. S. ADAMS,
No. 4, Clyde Road,
Hastings.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 28, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

A Provincial Debenture of the Hathras-Muthra Railway Loan, No. 000086, for Rs1,500, belonging to Debi Das Joti Parshad, has been lost.

JOTI PARSHAD,
Rayees, Hathras,
Zila Aligarh.

Lost.

The Government Promissory Note No. 000055, of the 4 per cent. loan of 1828-29, for Rs200, originally standing in the name of Panchanun Bysack; and last endorsed to Okhoyloll Kur and Amritaloll Kur, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note, and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietors. The

public are cautioned against purchasing or otherwise dealing with the abovementioned security.

CHARU CHANDRA MITRA,
No. 21, Sustytollah Lane,
Narikeldanga, Calcutta.

Lost.

The lower half of the Government Promissory Note No. 203852 of the 4 per cent. loan of 1865, for Rs500, originally standing in the name of Mutty Laul Bural, and last endorsed to the Delhi and London Bank, Limited, the proprietors, by whom it was never endorsed to any other person, having been lost or destroyed, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

T. LONGMUIR,
Manager, Delhi and London Bank, Limited,
Calcutta.

The 18th April, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 5, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

We hereby give notice that we shall, from and after the 1st day of May, 1888, cease to carry on business at Kurrachee, and that the business now carried on by us at that place will, as from the said 1st May, 1888, be transferred to Messrs. Daniel McIver and William Glendower Mackenzie, who will thenceforth carry on the same for their behoof under the style and firm of McIver, Mackenzie & Co.

Dated this 30th day of April, 1888.

MACKINNON, MACKENZIE & CO.,
Calcutta, Bombay and Kurrachee.

NOTICE.

We hereby give notice that we have arranged to acquire the business now carried on at Kurrachee by Messrs. Mackinnon, Mackenzie & Co., as from the 1st May, 1888, from which date the said business will be carried on by us under the style and firm of McIver, Mackenzie & Co.

D. MCIVER.
W. G. MACKENZIE.

KURRACHEE,
The 30th April, 1888.

PROMISSORY NOTES.

Lost.

A Provincial Debenture of the Hathras-Muthra Railway Loan, No. 000086, for Rs. 1,500, belonging to Debi Das Joti Parshad, has been lost.

JOTI PARSHAD,
*Royees, Hathras,
Zila Aligarh.*

Lost.

The Government Promissory Note No. 000055, of the 4 per cent. loan of 1828-29, for Rs. 200, originally standing in the name of Panchanun Bysack, and last endorsed to Okhoyloll Kur and Amritaloll Kur, the proprietors, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note, and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

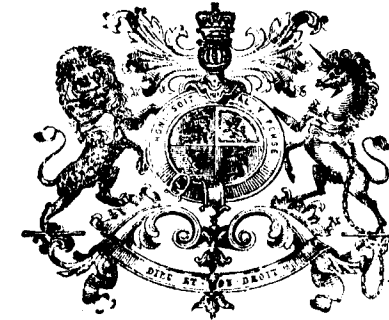
CHARU CHANDRA MITRA,
*No. 21, Sustytollah Lane,
Narikeldanga, Calcutta.*

Lost.

The lower half of the Government Promissory Note No. 203852 of the 4 per cent. loan of 1865, for Rs. 500, originally standing in the name of Muttu Laul Bural, and last endorsed to the Delhi and London Bank, Limited, the proprietors, by whom it was never endorsed to any other person, having been lost or destroyed, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietors. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

T. LONGMUIR,
*Manager, Delhi and London Bank, Limited,
Calcutta.*

The 18th April, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 12, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 027256, of the 4½ per cent. loan of 1879, for ₹1,000, originally standing in the name of D. F. Lobo, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given, that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

D. F. LOBO,
*No. 48, New Hunooman Gallee,
Calcutta, Bombay.*

Destroyed.

Three Government Promissory Notes, Nos. 256779, 256780, and 256781, of the 4 per cent. loan of 1865, for ₹100 each, standing in the name of Surendranath Mookerjee, having been destroyed, notice is hereby given that payment of the above notes, and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and the Treasury of Burdwan, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SURENDRA NATH MOOKERJEE,
Jaugram.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 19, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 027256, of the 4½ per cent. loan of 1879, for ₹1,000, originally standing in the name of D. F. Lobo, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given, that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

D. F. LOBO,

No. 48, New Hunooman Gullee,
Calbadevie, Bombay.

Lost.

The Government Promissory Note, No. 032913, of the 4 per cent. loan of 1854-55, for ₹500, originally standing in the name of the Bank of Bombay, and Notes Nos. 114607, 114608, and 109944, of the 4 per cent. loan of 1865, for ₹500 each, and Note No. 153624 of the 4 per cent. loan of 1865, for ₹500, originally standing in the names of the Bank of

Bengal and Grace Thompson, Executrix of Frederick Thompson, respectively, and last endorsed to Nana Shivaji, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

NANA SHIVAJI,

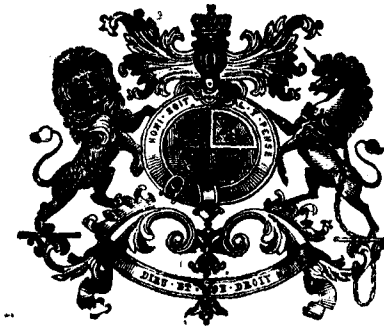
Rastaspel, House No. 180, Poona.

Destroyed.

Three Government Promissory Notes, Nos. 256779, 256780, and 256781, of the 4 per cent. loan of 1865, for ₹100 each, standing in the name of Surendranath Mookerjee, having been destroyed, notice is hereby given that payment of the above notes, and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and the Treasury of Burdwan, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SURENDRA NATH MOOKERJEE,

Jaugram



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 26, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 027256, of the 4½ per cent. loan of 1879, for Rs. 1,000, originally standing in the name of D. F. Lobo, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given, that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

D. F. LOBO,

No. 48, New Hunooman Gallee,
Calcutta, Bombay.

Lost.

The Government Promissory Note, No. 022913, of the 4 per cent. loan of 1854-55, for Rs. 500, originally standing in the name of the Bank of Bombay, and Notes Nos. 114607, 114608, and 109944, of the 4 per cent. loan of 1865, for Rs. 500 each, and Note No. 153624 of the 4 per cent. loan of 1865, for Rs. 500, originally standing in the names of the Bank of Bengal and Grace Thompson, Executrix of Frederick Thompson, respectively, and last endorsed to Nana Shivaji, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

NANA SHIVAJI,

Rastaspur, House No. 180, Poona.

Lost.

The Government Promissory Notes Nos. 111853 and 081095, of the 4 per cent. loan of 1865, for Rs. 500 each, originally standing in the names of Obhoy Churn Goho and the Chartered Bank of India, Australia and China, respectively, and last endorsed to Sheetul Nath Mookerjee, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the legal heiress, widow of the proprietor, deceased. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SHOSHEE MOOKHEE DEBYA,

Widow of Sheetul Nath Mookerjee.

BENARES CHOWHATTA,
MUDUNPOORA, HOUSE OF
RAJCOOMAR BANERJEE,
The 9th May, 1888.

Lost.

The Government Promissory Note of 4 per cent., No. 087061, of the 1st February, 1843, for Rs. 500 only, originally standing in the name of Omesh Chunder Dutt, and last endorsed to me on the 1st February, 1886, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of a duplicate in favour of the proprietor, after two years from date of last advertisement.

MATHURA MOHAN GHOSH,

No. 28, Mirzapur Street, Calcutta.

Destroyed.

Three Government Promissory Notes, Nos. 256779, 256780, and 256781, of the 4 per cent. loan of 1865, for Rs. 100 each, standing in the name of Surendranath Mookerjee, having been destroyed, notice is hereby given that payment of the above notes, and the interest thereupon have been stopped at the Public Debt Office,

Bank of Bengal, Calcutta, and the Treasury of Burdwan, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SURENDRA NATH MOOKERJEE,
Jaugram.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 2, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Abstract Statement of the Uncovenanted Service Family Pension Fund for the Second Quarter ending 31st October 1887, compared with the corresponding quarter of the year 1886.

PARTICULARS.	For the 2nd quarter ending 31st October 1887.	For the 2nd quarter ending 31st October 1886.	Increase.	Decrease.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Balance at credit of the Fund on the Government books at the end of the previous quarter	99,25,762 1 4	95,98,861 2 4	3,31,910 15 0	
ADD RECEIPTS—				
Subscriptions from August to October in the Widows' Fund ...	1,25,039 1 2	1,23,769 14 9	1,269 2 5	
Ditto ditto Children's Fund ...	84,853 4 8	84,160 0 9	193 3 11	
Entrance fees, &c., from August to October	811 3 9	440 14 0		129 10 3
Amount transferred to divisible surplus	744 15 0	80 4 0	664 11 0	
Total Receipts ...	2,10,447 8 7	2,08,451 1 8	(a) 2,126 1 4	129 10 3
GRAND TOTAL ...	1,01,36,209 9 11	98,02,302 3 10	3,34,037 0 4	129 10 3
DEDUCT PAYMENTS—				
Pensions to incumbents in the Widows' Fund	95,573 4 2	90,764 9 6	4,808 10 9	
Ditto ditto Children's Fund ...	68,534 7 11	62,706 2 7	3,828 5 4	
Establishment, including office rent and contingencies ...	7,547 12 11	7,058 7 9	491 5 2	
Loss in exchange on remittances to England	17,416 7 1	20,480 7 1		3,064 0 0
Amount of fine written back	128 9 4	21 1 0	106 15 4	
Total Payments ...	1,87,200 9 6	1,81,029 4 10	(b) 9,235 4 7	3,064 0 0
Balance in favour of the Fund, exclusive of interest upon capital	89,49,009 0 6	96,21,272 15 0	(c) 3,24,801 11 9	2,934 5 9
Proportion of divisible surplus payable to subscribers	85,288 14 0	59,730 3 0	25,528 11 0	
	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.
Number of subscribers	1,533	1,022	1,536	1,023
Ditto of incumbents	451	672	455	658
Ditto of subscribers sharing divisible surplus	1,165	787	1,152	776

	Rs. A. P.
(a) Net increase in receipts	1,996 7 1
(b) Ditto in payments	6,171 4 7
(c) Ditto in balance	3,27,738 1 6

R. A. FINK,
Offg. Accountant.

R. A. FINK,
JAMES BELL, } Auditors.

Published by order of the Directors,

W. H. RYLAND, Secretary,
Uncovenanted Service Family Pension Fund.

FUND OFFICE, the 16th May 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 032913, of the 4 per cent. loan of 1854-55, for ₹500, originally standing in the name of the Bank of Bombay, and Notes Nos. 114607, 114608, and 109944, of the 4 per cent. loan of 1865, for ₹500 each, and Note No. 153624 of the 4 per cent. loan of 1865, for ₹500, originally standing in the names of the Bank of Bengal and Grace Thompson, Executrix of Frederick Thompson, respectively, and last endorsed to Nana Shivaji, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

NANA SHIVAJI,
Rastaspur, House No. 180, Poona.

Lost.

The Government Promissory Note, No. 144177, of the 4 per cent. loan of 1865, for ₹700, originally standing in the name of the Reverend J. Moulson, and last endorsed to the Assistant Comptroller General, Paper Currency, the ex-officio holder, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the ex-officio holder. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

H. KEENE,
Assistant Comptroller General.

Lost.

The Government Promissory Notes Nos. 111853 and 081095, of the 4 per cent. loan of 1865, for ₹500 each, originally standing in the names of Obhoy Churn Goho and the Chartered Bank of India, Australia and China, respectively, and last endorsed to Sheetul Nath Mookerjee, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the legal heiress, widow of the proprietor, deceased. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SHOSHEE MOOKHEE DEBYA,
Widow of Sheetul Nath Mookerjee.

BENARES CHOWHATTA,
MUDUNPOORA, HOUSE OF
RAJCOOMAR BANERJEE,
The 9th May, 1888.

Lost, Stolen or Destroyed.

The Government Promissory Note of 4 per cent., No. 087061, of the 1st February, 1843, for ₹500 only, originally standing in the name of Omesh Chunder Dutt, and last endorsed to me on the 1st February, 1886, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of a duplicate in favour of the proprietor, after two years from date of last advertisement.

MATHURA MOHAN GHOSH,
No. 28, Mirzapur Street, Calcutta.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 9, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 144177, of the 4 per cent. loan of 1865, for ₹700, originally standing in the name of the Reverend J. Moulson, and last endorsed to the Assistant Comptroller General, Paper Currency, the ex-officio holder, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the ex-officio holder. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

H. KEENE,
Assistant Comptroller General.

Lost.

The Government Promissory Note, No. 173407, of the 4 per cent. loan of 1842-43, for ₹500, originally standing in the name of Soonderjee Poonjah, and last endorsed to Madum Soobanah, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

MADUM SOOBANAH,
Kurnool.

KURNOOL,
The 1st June, 1888.

Lost.

The Government Promissory Notes Nos. 111853 and 081095, of the 4 per cent. loan of 1865, for ₹500 each, originally standing in the names of Obhoy Churn Goho and the Chartered Bank of India, Australia and China, respectively, and last endorsed to Sheetul Nath Mookerjee, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the legal heiress, widow of the proprietor, deceased. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

SHOSHEE MOOKHEE DEBYA,
Widow of Sheetul Nath Mookerjee.

BENARES CHOWHATTA,
MUDUNPOORA, HOUSE OF
RAJCOOMAR BANERJEE,
The 9th May, 1888.

Lost, Stolen or Destroyed.

The Government Promissory Note of 4 per cent., No. 087061, of the 1st February, 1843, for ₹500 only, originally standing in the name of Omesh Chunder Dutt, and last endorsed to me on the 1st February, 1886, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of a duplicate in favour of the proprietor, after two years from date of last advertisement.

MATHURA MOHAN GHOSH,
No. 28, Mirzapur Street, Calcutta.

Lost or Destroyed.

The Government Promissory Notes, Nos. 236782 and 236783, of the 4 per cent. loan of 1865, for Rs500 each, originally standing in the name of the Bank of Bengal, and last endorsed to General Dumber Shum Shere Jung Bahadur Rana, the proprietor, by whom they were never endorsed to any other person, having been lost or destroyed, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt

Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

HARI TARAN BHATTACHARYYA,
154, Bow Bazar Street,
Calcutta.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 16, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 144177, of the 4 per cent. loan of 1865, for Rs700, originally standing in the name of the Reverend J. Moulson, and last endorsed to the Assistant Comptroller General, Paper Currency, the ex-officio holder, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the ex-officio holder. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

H. KEENE,
Assistant Comptroller General.

Lost.

The Government Promissory Note, No. 173407, of the 4 per cent. loan of 1842-43, for Rs500, originally standing in the name of Soonderjee Poonjah, and last endorsed to Madum Soobanah, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon

have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

MADUM SOOBANAH,
Kurnool.

KURNOOL,
The 1st June, 1888.

Lost or Destroyed.

The Government Promissory Notes, Nos. 236782 and 236783, of the 4 per cent. loan of 1865, for Rs500 each, originally standing in the name of the Bank of Bengal, and last endorsed to General Dumber Shum Shere Jung Bahadur Rana, the proprietor, by whom they were never endorsed to any other person, having been lost or destroyed, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

HARI TARAN BHATTACHARYYA,
154, Bow Bazar Street,
Calcutta.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 23, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 173407, of the 4 per cent. loan of 1842-43, for Rs500, originally standing in the name of Soonderjee Poonjah, and last endorsed to Madum Soobanah, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

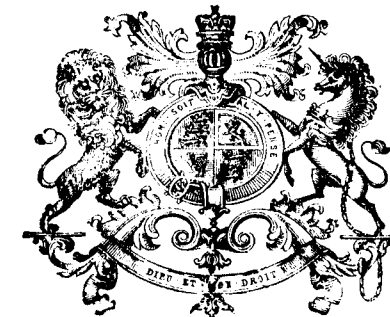
MADUM SOOBANAH,
Kurnool.

KURNOOL,
The 1st June, 1888.

Lost or Destroyed.

The Government Promissory Notes, Nos. 236782 and 236783, of the 4 per cent. loan of 1865, for Rs500 each, originally standing in the name of the Bank of Bengal, and last endorsed to General Dumber Shum Shere Jung Bahadur Rana, the proprietor, by whom they were never endorsed to any other person, having been lost or destroyed, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

HARI TARAN BHATTACHARYA,
*154, Bow Bazar Street,
Calcutta.*



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JULY 7, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

Memorandum showing the Promissory notes lost at Gauhati on the 11th February, 1888, at 10-30 A.M., from the Steamer Ghât:—

- No. 159396, of 4 per cent. loan of 1842-43, for ₹500.
- No. 103146, of 4 per cent. loan of 1842-43, for ₹100.
- No. 221180, of 4 per cent. loan of 1865, for ₹100.
- No. 153774, of 4 per cent. loan of 1842-43, for ₹100.
- No. 221181, of 4 per cent. loan of 1865, for ₹100.
- No. 158484, of 4 per cent. loan of 1842-43, for ₹100.
- No. 158481, of 4 per cent. loan of 1842-43, for ₹100.

No. 171815, of 4 per cent. loan of 1842-43, for ₹100.

No. 171816, of 4 per cent. loan of 1842-43, for ₹100.

No. 242257, of 4 per cent. loan of 1865, for ₹500.

originally standing in the name of not known, and last endorsed to Girishchandra Mukerjee, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of the duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

GIRISHCHANDRA MUKERJEE,
Chief Commst. Office, Shillong.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JULY 14, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

THE KAMPTIE GWALLIE TEA COMPANY, "LIMITED."

NOTICE.

Notice is hereby given that the subjoined Special Resolution was duly passed at an Extraordinary General Meeting of Shareholders of the above Company held at the Registered Office of the Company, No. 38, Strand, Calcutta, on the 6th day of June, 1888, and was duly confirmed at another Extraordinary General Meeting held on the 4th day of July, 1888:—

That the Company be wound up voluntarily and that F. E. Patteson, Esq., of Calcutta, be, and he is hereby appointed, Liquidator for the purpose of such winding up, with power to do such of the several acts and things specified in Sections 144 and 177 of the Indian Companies Act, 1882, as shall be found necessary or proper for winding up the affairs of the Company and distributing its assets, and moreover with special power to sell and transfer as from the (1st day of December, 1887) to the Jokai (Assam) Tea Company, "Limited," the lands, tea gardens and properties of the Company, and the plant, live and dead stock, chattels and effects and other properties moveable and immoveable in or upon the same or appurtenant thereto, but exclusive of the amount standing at credit of the Profit and Loss Account of the Company on the 30th November last, and to receive, in consideration of such sale and transfer, for distribution among the Members of the Company, 1,833 fully paid-up shares in the said Jokai (Assam) Tea Company, "Limited," of the par value of £10 each, as the price of such lands and other property, with power for the purpose of effectuating such sale and transfer to execute, file and register all such agreements, deeds of conveyance or assignment or other documents, as may, in the opinion of the said Liquidator, be necessary or desirable, and also with power to make any variation in the terms of sale to the said Jokai (Assam) Tea Company, "Limited," as the said Liquidator may think necessary or desirable.

That the remuneration of the said Liquidator be Rupees five hundred only.

HOARE, MILLER & CO.,
Managing Agents.

PROMISSORY NOTES.

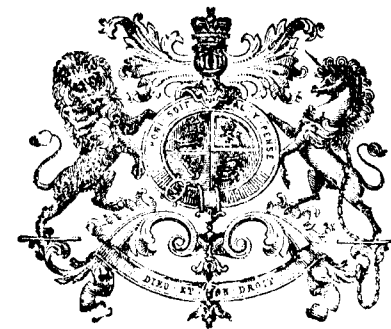
Lost.

Memorandum showing the Promissory notes lost at Gauhati on the 11th February, 1888, at 10-30 A.M., from the Steamer Ghât:—

- No. 159396, of 4 per cent. loan of 1842-43, for ₹500.
- No. 103146, of 4 per cent. loan of 1842-43, for ₹100.
- No. 221180, of 4 per cent. loan of 1865, for ₹100.
- No. 153774, of 4 per cent. loan of 1842-43, for ₹100.
- No. 221181, of 4 per cent. loan of 1865, for ₹100.
- No. 158484, of 4 per cent. loan of 1842-43, for ₹100.
- No. 158481, of 4 per cent. loan of 1842-43, for ₹100.
- No. 171815, of 4 per cent. loan of 1842-43, for ₹100.
- No. 171816, of 4 per cent. loan of 1842-43, for ₹100.
- No. 242257, of 4 per cent. loan of 1865, for ₹500.

originally standing in the name of not known, and last endorsed to Girishchandra Mukerjee, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of the duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

GIRISHCHANDRA MUKERJEE,
Chief Commst. Office, Shillong.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JULY 21, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

BRUCE INSTITUTION.

ANNUAL ELECTION, 1888.

The Governors of the Bruce Institution will proceed at 5 P.M., on Thursday, the 30th August, 1888, to the election of ten Eurasian girls on the Bruce Foundation. Candidates must, on the day of election, be not under five and not over ten years of age; and preference will be given to orphans and to those deserted by their parents.

Forms of application may be obtained at the Office of the Bruce Institution, 32, Writers' Buildings, and applications, on these forms only, will be received by the undersigned up to Saturday, the 18th August, 1888.

By order of the Governors,
A. CROFT,
Honorary Secretary.

OFFICE OF THE BRUCE INSTITUTION,
The 18th July, 1888.

NOTICE.

The Power of Attorney in favour of Mr. G. Butterfass is cancelled by and at the expiration of his agreement.

W. F. STUTZ.

The 30th April, 1888.

PROMISSORY NOTES.

Lost.

Memorandum showing the Promissory notes lost at Gauhati on the 11th February, 1888, at 10-30 A.M., from the Steamer Ghât:—

No. 159396, of 4 per cent. loan of 1842-43, for Rs500.

No. 103146, of 4 per cent. loan of 1842-43, for Rs100.

No. 221180, of 4 per cent. loan of 1865, for Rs100.

No. 153774, of 4 per cent. loan of 1842-43, for Rs100.

No. 221181, of 4 per cent. loan of 1865, for Rs100.

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No. 158481, of 4 per cent. loan of 1842-43, for Rs100.

No. 171815, of 4 per cent. loan of 1842-43, for Rs100.

No. 171816, of 4 per cent. loan of 1842-43, for Rs100.

No. 242257, of 4 per cent. loan of 1865, for Rs500.

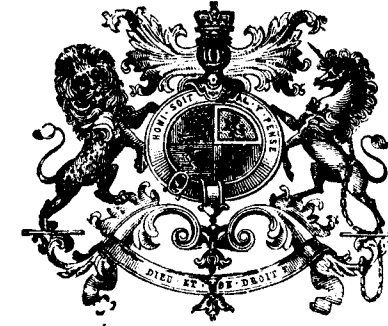
originally standing in the name of not known, and last endorsed to Girishchandra Mukerjee, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of the duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

GIRISHCHANDRA MUKERJEE,
Chief Commst. Office, Shillong.

Stolen.

The Government Promissory Notes, Nos. 131311 of 1842-43, for Rs1,000, 131313 and 131314 of 1882-83, for Rs500 each, 189684, 190072, 190073, and 226942 of 1865, for Rs1,000 each, all of 4 per cent., originally standing in the name of Hara Dhon Nag, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

HARA DHON NAG,
C. H. Assistant, Barisa Dispensary.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JULY 28, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

BRUCE INSTITUTION.

ANNUAL ELECTION, 1888.

The Governors of the Bruce Institution will proceed at 5 P.M., on Thursday, the 30th August, 1888, to the election of ten Eurasian girls on the Bruce Foundation. Candidates must, on the day of election, be not under five and not over ten years of age; and preference will be given to orphans and to those deserted by their parents.

Forms of application may be obtained at the Office of the Bruce Institution, 32, Writers' Buildings, and applications, on these forms only, will be received by the undersigned up to Saturday, the 18th August, 1888.

By order of the Governors,
A. CROFT,
Honorary Secretary.

OFFICE OF THE BRUCE INSTITUTION,
The 18th July, 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes, one No. 159970 and the other No. 159010, of the 4 per cent. of 1865, for Rs. 1,000 each, one originally standing in the name of Prosad Das Boral, and the other in the name of Tincowry Das. Both of them last endorsed to Sreemati Basanto Kumari Dasi of Jamgram, the proprietress, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and

application is to be made for accrued interest and for the issue of duplicates in favour of the proprietress, after two years from date of last advertisement.

SREEMATI BASANTO KUMARI DAS,
Jamgram.

Lost.

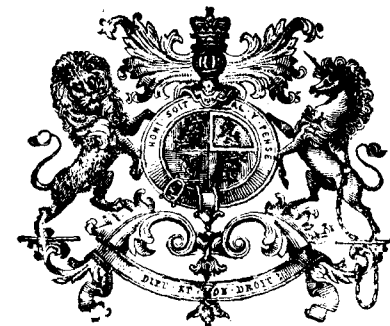
The Government Promissory Note, No. 019729—010966, of the 4 per cent. of 1854-55, for Rs. 500, originally standing in the name of the Executive Commissariat Officer, Dinapore, and last endorsed to Kally Nath Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

KALLY NATH CHATTERJEE,
Bhowanipur.

Stolen.

The Government Promissory Notes, Nos. 131311 of 1842-43, for Rs. 1,000, 131313 and 131314 of 1882-83, for Rs. 500 each, 189684, 190072, 190073, and 226942 of 1865, for Rs. 1,000 each, all of 4 per cent., originally standing in the name of Hara Dhon Nag, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

HARA DHON NAG,
C. H. Assistant, Barisa Dispensary.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA. SATURDAY, AUGUST 4, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

BRUCE INSTITUTION.

ANNUAL ELECTION, 1888.

The Governors of the Bruce Institution will proceed at 5 P.M., on Thursday, the 30th August, 1888, to the election of ten Eurasian girls on the Bruce Foundation. Candidates must, on the day of election, be not under five and not over ten years of age; and preference will be given to orphans and to those deserted by their parents.

Forms of application may be obtained at the Office of the Bruce Institution, 32, Writers' Buildings, and applications, on these forms only, will be received by the undersigned up to Saturday, the 18th August, 1888.

By order of the Governors,

A. CROFT,

Honorary Secretary.

OFFICE OF THE BRUCE INSTITUTION,

The 18th July, 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes, one No. 159970 and the other No. 159010, of the 4 per cent. of 1865, for Rs. 1,000 each, one originally standing in the name of Prosad Das Boral, and the other in the name of Tincowry Das. Both of them last endorsed to Sree mat

Basanto Kumari Dasi of Jamgram, the proprietress, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest and for the issue of duplicates in favour of the proprietress, after two years from date of last advertisement.

SREEMATI BASANTO KUMARI DAS,

Jamgram.

Lost.

The Government Promissory Note, No. 019-29-810966, of the 4 per cent. of 1854-55, for Rs. 500, originally standing in the name of the Executive Commissariat Officer, Dinapore, and last endorsed to Kally Nath Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

KALLY NATH CHATTERJEE,

Bhowanipur.

Lost.

The Government Promissory Note No. 088800, of the 4 per cent. loan of 1865, for Rs. 5,000, originally standing in the name of John Juce, and last endorsed to Manshankar Vija-

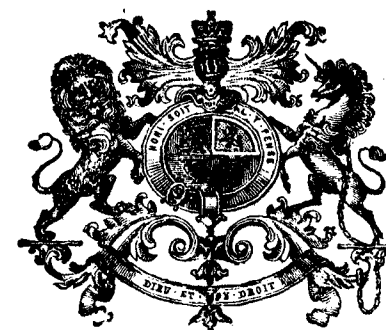
shankar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

GIRJASHANKAR VIJASHANKAR,
Kalkadevi, Bombay.

Stolen.

The Government Promissory Notes, Nos. 131311 of 1842-43, for Rs. 1,000, 131313 and 131314 of 1882-83, for Rs. 500 each, 189684, 190072, 190073, and 226942 of 1865, for Rs. 1,000 each, all of 4 per cent., originally standing in the name of Hara Dhon Nag, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

HARA DHON NAG,
C. H. Assistant, Barisa Dispensary.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, AUGUST 11, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

RESULT OF VOTES.

On the proposals submitted in Circular No. 2,
dated 6th April, 1888.

Subject.	Yes.	No.
1. To amend rule 28 by allowing the medical fee to be paid by the Fund in certain cases.	1,002	75
2. To introduce a new rule, 23 A, making provision for applications for admission before marriage.	1,034	40

By order of the Directors,
W. H. RYLAND,
Secretary.

U. S. F. PENSION FUND,
CALCUTTA,
The 21st July, 1888.

BRUCE INSTITUTION.

ANNUAL ELECTION, 1888.

The Governors of the Bruce Institution will proceed at 5 P.M., on Thursday, the 30th August, 1888, to the election of ten Eurasian girls on the Bruce Foundation. Candidates must, on the day of election, be not under five and not over ten years of age; and preference will be given to orphans and to those deserted by their parents.

Forms of application may be obtained at the Office of the Bruce Institution, 32, Writers' Buildings, and applications, on these forms only,

will be received by the undersigned up to Saturday, the 18th August, 1888.

By order of the Governors,
A. CROFT,
Honorary Secretary.

OFFICE OF THE BRUCE INSTITUTION,
The 18th July, 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes, one No. 159970 and the other No. 159010, of the 4 per cent. of 1865, for Rs. 1,000 each, one originally standing in the name of Prosad Das Boral, and the other in the name of Tincowry Das. Both of them last endorsed to Sree mat Basanto Kumari Dasi of Jamgram, the proprietress, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietress, after two years from date of last advertisement.

SREEMATI BASANTO KUMARI DASI,
Jamgram.

Lost.

The Government Promissory Note, No. 019729—010966, of the 4 per cent. of 1854-55, for Rs. 500, originally standing in the name of the Executive Commissariat Officer, Dinapore, and last endorsed to Kally Nath Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and

the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

KALLY NATH CHATTERJEE,
Bhowanipur.

Lost.

The Government Promissory Note, No. 078956, of the 4 per cent. of 1865, for ₹1,000, originally standing in the name of Rai Dhunput Sing, Bahadoor, and last endorsed to Bhubonesh Chuckerbutty, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

BHUBONESH CHUCKERBUTTY,
Konnagar.

Lost.

The Government Promissory Note, No. 088800, of the 4 per cent. loan of 1865, for ₹5,000, originally standing in the name of John Juce, and last endorsed to Manshankar Vijashankar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

GIRJASHANKAR VIJASHANKAR,
Kalkadevi, Bombay.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, AUGUST 18, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

BRUCE INSTITUTION.

ANNUAL ELECTION, 1888.

The Governors of the Bruce Institution will proceed at 5 P.M., on Thursday, the 30th August, 1888, to the election of ten Eurasian girls on the Bruce Foundation. Candidates must, on the day of election, be not under five and not over ten years of age; and preference will be given to orphans and to those deserted by their parents.

Forms of application may be obtained at the Office of the Bruce Institution, 32, Writers' Buildings, and applications, on these forms only, will be received by the undersigned up to Saturday, the 18th August, 1888.

By order of the Governors,
A. CROFT,
Honorary Secretary.

OFFICE OF THE BRUCE INSTITUTION,
The 18th July, 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 78956, of the 4 per cent. of 1865, for ₹1,000, originally standing in the name of Rai Dhunput Sing, Bahadoor, and last endorsed to Bhubonesh Chuckerbutty, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

BHUBONESH CHUCKERBUTTY,
Konnagar.

Lost.

The Government Promissory Note No. 088800, of the 4 per cent. loan of 1865, for ₹5,000, originally standing in the name of John Juce, and last endorsed to Manshankar Vijashankar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

GIRJASHANKAR VIJASHANKAR,
Kalkadevi, Bombay.

Lost.

The first half of Government Promissory Note No. 151922, of the 4 per cent. loan of 1842-43, for ₹1,000, originally standing in the name of Gopal Chunder Datta, and last endorsed to Mrittonjoy Mookerjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application has been made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

MRITTONJOY MOOKERJEE,
Benares.

Lost, Stolen, or Destroyed.

The Government Promissory Notes, Nos. 008565, 008566, 008568, 008569, 008570, 008571, and 008572, of the reduced 4 per cent. loan of 1879, and Note No. 022568 of the 4 per cent. loan of 1854-55, for ₹1,000 each, being non-negotiable counterparts of securities standing in the name of Madhu Mati Dabee, Administratrix of

Bhugwan Chunder Mookerjee. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of duplicates in favour of the proprietress.

MADHU MATI DABEE,
Sontoshpore, Dattoopukur P. O.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, AUGUST 25, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 078956, of the 4 per cent. of 1865, for ₹1,000, originally standing in the name of Rai Dhunput Sing, Bahadoor, and last endorsed to Bhubonesh Chuckerbutty, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

BHUBONESH CHUCKERBUTTY,
Konnagar.

Lost.

The first half of Government Promissory Note No. 151922, of the 4 per cent. loan of 1842-43, for ₹1,000, originally standing in the name of Gopal Chunder Datta, and last endorsed to Mrittonjoy Mookerjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application has been made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

MRTITONJOY MOOKERJEE,
Benares.

Lost.

The Government Promissory Note, No. 108529—090128, of the 4 per cent. of 1842-43, for ₹2,000, originally standing in the name of the Bank of Bengal, and last endorsed to Moolla Bebee, the proprietress, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietress.

MOOLLA BEBEE,
Resident of Sobhanugger.
LUCKNOW,
The 16th August, 1888.

Lost, Stolen, or Destroyed.

The Government Promissory Notes, Nos. 008565, 008566, 008568, 008569, 008570, 008571, and 008572, of the reduced 4 per cent. loan of 1879, and Note No. 022568 of the 4 per cent. loan of 1854-55, for ₹1,000 each, being non-negotiable counterparts of securities standing in the name of Madhu Mati Dabee, Administratrix of Bhugwan Chunder Mookerjee. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of duplicates in favour of the proprietress.

MADHU MATI DABEE,
Sontoshpore, Dattoopukur P. O.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, SEPTEMBER 1, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The first half of Government Promissory Note No. 151922, of the 4 per cent. loan of 1842-43, for ₹1,000, originally standing in the name of Gopal Chunder Datta, and last endorsed to Mrittonjoy Mookerjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application has been made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

MRITTONJOY MOOKERJEE,
Benar S.

Lost.

The Government Promissory Note, No. 108529—090128, of the 4 per cent. of 1842-43, for ₹2,000, originally standing in the name of the Bank of Bengal, and last endorsed to Moolla Bebee, the proprietress, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietress.

MOOLLA BEBEE,
Resident of Sobhanugger.

Lucknow,
The 16th August, 1888.

Lost.

The undermentioned Government Promissory Notes, last endorsed to Fathey Chund Golacha, the proprietor, by whom they were never endorsed to any other person. Payment of the notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor:—

- No. A.O.—20023, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.
- No. A.O.—20024, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.
- No. A.O.—23717, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.
- No. A.O.—28377, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.
- No. A.O.—28378, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.

FATHEY CHUND GOLACHA,
*Sowcar, Chick Bazar,
Bangalore.*

Lost, Stolen, or Destroyed.

The Government Promissory Notes, Nos. 008563, 008566, 008569, 008570, 008571, and 008572, of the reduced 4 per cent. loan of 1879, and Note No. 022568 of the 4 per cent. loan of 1854-55, for ₹1,000 each, being non-negotiable counterparts of securities standing in the name of Madhu Mati Dabee, Administratrix of Bhugwan Chunder Mookerjee. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of duplicates in favour of the proprietress.

MADHU MATI DABEE,
Sontoshpore, Daitopukur P. O.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, SEPTEMBER 8, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The undermentioned Government Promissory Notes, last endorsed to Fathey Chund Golacha, the proprietor, by whom they were never endorsed to any other person. Payment of the notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor:—

No. A.O.—20023, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.

No. A.O.—20024, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.

No. A.O.—23717, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.

No. A.O.—28377, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.

No. A.O.—28378, reduced 4 per cent. loan of 16th January, 1879, for ₹1,000.

FATHEY CHUND GOLACHA,

Sowcar, Chick Basar,

Bangalore.

Lost.

The Government Promissory Note, No. 108529—090128, of the 4 per cent. of 1842-43,

for ₹2,000, originally standing in the name of the Bank of Bengal, and last endorsed to Moolla Bebee, the proprietress, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietress.

MOOLLA BEBEE,

Resident of Sobhanugger.

LUCKNOW,

The 16th August, 1888.

Lost.

The Government Promissory Note No. 173407, of the 4 per cent. loan of 1842-43, for ₹500, originally standing in the name of the Commissioner of Salt and Abkari Revenue, Madras, and last endorsed to Madum Soobanah, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of a duplicate in favour of the proprietor, after two years from date of last advertisement.

MADUM SOOBANAH,

Kurnool.

The 25th August, 1888.

Abstract Statement of the Uncovenanted Service Family Pension Fund for the Third Quarter ending 31st January 1888, compared with the corresponding quarter of the year 1887.

PARTICULARS.	For the 3rd quarter ending 31st January 1888.	For the 3rd quarter ending 31st January 1887.	Increase.	Decrease.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Balance at credit of the Fund on the Government books at the end of the previous quarter	99,40,009 0 6	96,21,272 15 0	3,27,736 1 6	
ADD RECEIPTS—				
Subscriptions from November to January in the Widows' Fund	1,25,998 8 9	1,24,139 11 0	1,858 13 9	
Ditto ditto Children's Fund	85,211 7 9	83,762 4 10	1,449 2 11	
Entrance fees, &c., ditto	458 12 6	305 13 6	152 15 0	
Fines imposed under Rule 40A	278 8 10	421 15 1		143 6 3
Amount credited to divisible surplus	25 8 0	315 15 0		290 7 0
Amount of interest received from subscribers		1 14 0		1 14 0
Total Receipts	2,11,972 13 10	2,08,947 9 5	(a) 3,480 15 8	435 11 3
GRAND TOTAL	1,01,60,981 14 4	98,30,220 8 5	3,31,197 1 2	435 11 3
DEDUCT PAYMENTS—				
Pensions payable to incumbents in the Widows' Fund	94,663 4 11	92,310 1 0	2,353 3 11	
Ditto ditto Children's Fund	66,315 8 5	64,221 10 5	2,093 9 0	
Establishment, including office-rent and contingencies	9,919 1 8	9,747 0 4	171 1 4	
Loss by exchange on remittance to England	18,223 4 7	15,027 4 9	3,195 15 10	
Amount of divisible surplus	5 4 0		5 4 0	
Amount of fine written back	13 11 6	70 11 1		56 15 7
Total Payments	1,89,143 14 1	1,81,376 11 7	(b) 7,824 2 1	56 15 7
Net balance in favour of the Fund, exclusive of interest upon capital	99,71,838 0 3	96,48,843 12 10	(c) 3,23,872 15 1	378 11 8
Proportion of divisible surplus payable to qualified subscribers	85,288 14 0	59,780 3 0	25,528 11 0	

	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.	Widows' Fund.	Children's Fund.
Number of subscribers	1,548	1,022	1,531	1,018	15	4		
Number of incumbents	452	688	444	672	8			4
Number of subscribers sharing a divisible surplus	1,165	787	1,152	776	13	11		

	Rs. A. P.
(a) Net increase in receipts	3,025 4 5
(b) Ditto in payments	7,767 2 6
(c) Ditto in balances	3,22,994 3 5

R. A. FINK,
Offg. Accountant.

H. RONALDSON,
JAMES BELL, } Auditors.

Published by order of the Directors,
W. H. RYLAND, Secretary.

UNCOVENANTED SERVICE FAMILY PENSION FUND OFFICE the 17th August 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, SEPTEMBER 15, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 173407, of the 4 per cent. loan of 1842-43, for Rs500, originally standing in the name of the Commissioner of Salt and Abkari Revenue, Madras, and last endorsed to Madum Soobanah, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest, and for the issue of a duplicate in favour of the proprietor, after two years from date of last advertisement.

MADUM SOOBANAH,
Kurnool.

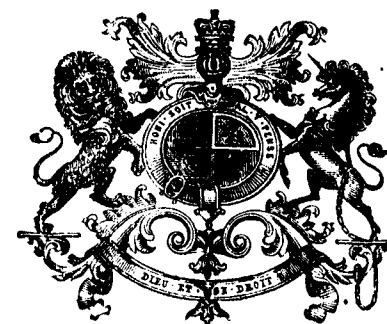
The 25th August, 1888

Lost.

The undermentioned Government Promissory Notes, last endorsed to Fathey Chund Golacha, the proprietor, by whom they were never endorsed to any other person. Payment of the notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor:—

- No. A.O.—20023, reduced 4 per cent. loan of 16th January, 1879, for Rs1,000.
- No. A.O.—20024, reduced 4 per cent. loan of 16th January, 1879, for Rs1,000.
- No. A.O.—23717, reduced 4 per cent. loan of 16th January, 1879, for Rs1,000.
- No. A.O.—28377, reduced 4 per cent. loan of 16th January, 1879, for Rs1,000.
- No. A.O.—28378, reduced 4 per cent. loan of 16th January, 1879, for Rs1,000.

FATHEY CHUND GOLACHA,
Sowcar, Chick Bazar,
Bangalore.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, SEPTEMBER 22, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 173407, of the 4 per cent. loan of 1842-43, for Rs500, originally standing in the name of the Commissioner of Salt and Abkari Revenue, Madras, and last endorsed to Madum Soobanah, the proprietor, by whom it was never endorsed

to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal; and application is to be made for accrued interest, and for the issue of a duplicate in favour of the proprietor, after two years from date of last advertisement.

MADUM SOOBANAH,

The 25th August, 1888

Kurnool.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, OCTOBER 27, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

Government Promissory new Note, No. 052081 of the 4 per cent. loan of 1854-55, for Rs500, standing in the name of Nemy Churn Dey, the proprietor, by whom it was never endorsed to

any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

NEMY CHURN DEY,
No. 2, Rajah's Lane,
Calcutta.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, NOVEMBER 3, 1888.

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PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

Government Promissory new Note, No. 052081 of the 4 per cent. loan of 1854-55, for Rs500, standing in the name of Nemy Churn Dey, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of a duplicate in favour of the proprietor.

NEMY CHURN DEY,
*No. 2, Rajah's Lane,
Calcutta.*

Lost.

The last half part of the Government Promissory Note, No. 088800, of the 4 per cent. loan of 1865, for Rs5,000, originally standing in the name of John Ince, and last endorsed to Man-shankar Vijashankar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

For GIRJASHANKAR VIJASHANKAR,
DHUNJI KASIDASS.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, NOVEMBER 10, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

IN THE COURT OF THE DISTRICT JUDGE, INDORE RESIDENCY.

MISCELLANEOUS APPLICATION UNDER ACT
X OF 1865.

Mrs. Margaret Murray, Applicant.

Whereas Mrs. Margaret Murray, of Canada (Picton, Nova Scotia), has presented an application to this Court through her Attorney, Revd. J. Fraser Campbell, of the Canadian Mission at Indore, praying that she should be granted letters of administration to the estate and effects of Revd. R. C. Murray, of the Canadian Mission at Indore, who died on the 29th December, 1887, leaving property within the jurisdiction of this Court:

Notice is hereby given that all persons claiming to have any interest in the estate of the said deceased, should attend and see the proceedings of this Court on the 4th December, 1888, which is the date fixed for hearing the applicant's petition.

WAHIDUDDIN,

Attaché to the Agent to the Govr. Genl.

for Central India & Dist. Judge, Indore Resdy.

INDORE RESIDENCY,

The 31st October, 1888.

IN THE COURT OF JUDICIAL ASSISTANT COMMISSIONER, AJMERE, EXERCISING POWERS OF SUB-JUDGE, 1st CLASS.

CASE NO. I OF 1887.

*In re Feeroz Shah and Pistonjee of Ajmere
and Nussirabad.*

Whereas Feeroz Shah and Pistonjee petitioned this Court to be adjudicated an insolvent

under the provisions of Chapter XX of the Civil Procedure Code, and whereas the said Feeroz Shah and Pistonjee have satisfied this Court that the statements made by them in their application are substantially true, and that they are not guilty of any of the disqualifications mentioned in Section 351 of the Civil Procedure Code, this Court has declared them insolvents under the provisions of the said section, and notice is published under Section 354 of the Civil Procedure Code.

Piaray Lall, Nazir of the District Courts of Ajmere, is appointed Receiver in this case.

Given under my hand and the seal of the Court, this 25th day of October, 1888.

BHAG RAM,

Judl. Asst. Commr., Ajmere.

PROMISSORY NOTES.

Lost.

The last half part of the Government Promissory Note, No. 088800, of the 4 per cent. loan of 1865, for Rs. 5,000, originally standing in the name of John Ince, and last endorsed to Man-shankar Vijashankar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

GIRJASHANKAR VIJASHANKAR,
DHUNJI KASIDASS.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, NOVEMBER 17, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

IN THE COURT OF JUDICIAL ASSISTANT COMMISSIONER, AJMERE, EXERCISING POWERS OF SUB-JUDGE, 1st CLASS.

CASE NO. I OF 1887.

*In re Feeroz Shah and Pistonjee of Ajmere
and Nussirabad.*

Whereas Feeroz Shah and Pistonjee petitioned this Court to be adjudicated an insolvent under the provisions of Chapter XX of the Civil Procedure Code, and whereas the said Feeroz Shah and Pistonjee have satisfied this Court that the statements made by them in their application are substantially true, and that they are not guilty of any of the disqualifications mentioned in Section 331 of the Civil Procedure Code, this Court has declared them insolvents under the provisions of the said section, and notice is published under Section 354 of the Civil Procedure Code.

Piaray Lall, Nazir of the District Courts of Ajmere, is appointed Receiver in this case.

Given under my hand and the seal of the Court, this 25th day of October, 1888.

BHAG RAM,

Judl. Asst. Commr., Ajmere.

PROMISSORY NOTES.

Lost.

The last half part of the Government Promissory Note, No. 088800, of the 4 per cent. loan of 1865, for Rs. 5,000, originally standing in the name of John Ince, and last endorsed to Man-shankar Vijashankar, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

GIRJASHANKAR VIJASHANKAR,
DHUNJI KASIDASS.

Lost.

The Government Promissory Notes, Nos. 015116 and 060173, of the 4½ per cent. of 1878 and 1879, for Rs. 1,000 and Rs. 500, respectively, originally standing in the names of Nandoo Bai, Administratrix of Thakoor Pershad, and Major O. C. Corleyor, and last endorsed to Sidhessur Bose, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

SIDHESSUR BOSE,
Barilly, N.-W. P.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, NOVEMBER 24, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

HINDU FAMILY ANNUITY FUND.

Abstract Statement of the Audited Accounts of the Hindu Family Annuity Fund for the Quarters ended 30th June, 30th September, and 31st December, 1887.

Receipts.	Quarter ended 30th June, 1887.	Quarter ended 30th September, 1887.	Quarter ended 31st December, 1887.	Disbursements.	Quarter ended 30th June, 1887.	Quarter ended 30th September, 1887.	Quarter ended 31st December, 1887.
	<i>R a. p.</i>	<i>R a. p.</i>	<i>R a. p.</i>		<i>R a. p.</i>	<i>R a. p.</i>	<i>R a. p.</i>
Entrance Fees	28 0 0	19 0 0	37 0 0	Annuity	1,218 0 0	1,238 0 3	1,532 7 6
General Subscription	7,593 12 8	7,743 1 11	7,571 2 5	Establishment	368 8 0	373 8 0	373 8 0
Interest	4,414 3 3	6 12 9	4,700 0 0	Miscellaneous	443 7 3	301 12 3	168 9 3
Miscellaneous Receipts	1 14 3	4 3 0	4 9 0	Government of India for			
Advances Recoverable	8 12 3	...	...	Deposit	11,935 2 5	7,654 14 9	12,368 11 3
Government of India	2,065 0 0	2,057 0 0	1,875 0 0	Deposits	246 7 0	163 2 9	109 11 8
Deposits	82 0 6	147 10 1	99 2 3	Closing Cash Balance	284 12 6	531 2 3	265 0 3
Opening Cash Balance	302 10 3	284 12 6	531 2 3				
TOTAL R	14,496 5 2	10,262 8 3	14,817 15 11	TOTAL R	14,496 5 2	10,262 8 3	14,817 15 11

Published by order of the Directors agreeably to Rule 8g.

NANI MADHAV MUKHERJI,

SURENDRANATH GHOSH,

Auditors.

RAMAPRASANNA GHOSH,

Secretary.

CALCUTTA,

The 16th November, 1888.

IN THE COURT OF JUDICIAL
ASSISTANT COMMISSIONER,
AJMERE, EXERCISING POWERS OF
SUB-JUDGE, 1st CLASS.

CASE NO. I OF 1887.

*In re Feeroz Shah and Pistonjee of Ajmere
and Nussirabad.*

Whereas Feeroz Shah and Pistonjee petitioned this Court to be adjudicated an insolvent under the provisions of Chapter XX of the Civil Procedure Code, and whereas the said Feeroz Shah and Pistonjee have satisfied this Court that the statements made by them in their application are substantially true, and that they are not guilty of any of the disqualifications mentioned in Section 351 of the Civil Procedure Code, this Court has declared them insolvents under the provisions of the said section, and notice is published under Section 354 of the Civil Procedure Code.

Piaray Lall, Nazir of the District Courts of Ajmere, is appointed Receiver in this case.

Given under my hand and the seal of the Court, this 25th day of October, 1888.

BHAG RAM,
Judl. Asst. Comnr., Ajmere.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes, Nos. 015116 and 060173, of the 4½ per cent. of 1878 and 1879, for ₹1,000 and ₹500, respectively, originally standing in the names of Nandoo Bai, Administratrix of Thakoor Pershad, and Major E. C. Corbyn, and last endorsed to Sidhessur Bose, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

SIDHESSUR BOSE,
Bareilly, N.-W. P.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 1, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Mr. Henry J. Rost, Senior's, engagement with us expires to-day by effluxion of time and consequently his authority to sign for us will cease as from this date.

Mr. H. J. Rost, Junior, now holds our authority to sign our firm by procuration.

CUTLER, PALMER & CO.,
Calcutta and London.

The 30th November, 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Notes, Nos. 015116 and 060173, of the 4½ per cent. of 1878 and 1879, for ₹1,000 and ₹500, respectively, originally standing in the names of Nandoo Bai, Administratrix of Thakoor Pershad, and Major E. C. Corbyn, and last endorsed to Sidhessur Bose, the proprietor, by whom they were never endorsed to any other person. Payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of duplicates in favour of the proprietor.

SIDHESSUR BOSE,
Bareilly, N.-W. P.

Lost.

The Government Promissory Note, No. 035056, of the 4½ per cent. loan of 1879, for ₹100, originally standing in the name of Agra Bank, Limited, and last endorsed to Jamsetjee

Cursetjee Jamsetjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

JAMSETJEE CURSETJEE JAMSETJEE.

MAZAGON CASTLE,
BOMBAY,

The 14th November, 1888.

Lost.

The Government Promissory Notes, Nos. 247700, 194173, 236645, and A034705, of the 4 per cent. loan of 1865 and 1879, for ₹5,000, ₹2,000, ₹1,000, and ₹1,000, respectively, standing in the name of Pandit Kanhya Lall, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

PANDIT KANHYA LALL,
Dy. Collr. & Treasury Officer.

MUZAFFARNAGAR IN N.-W. P.,
The 16th November, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 8, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

RESULT OF VOTES

On the proposal submitted in Circular No. 3, dated 3rd August, 1888.

Subject.	Yes.	No.
Whether Mrs. M. A. W. White may be admitted to the pension provided for her as recommended in the Circular.	1,360	1

By order of the Directors,
W. H. RYLAND,
Secretary.

U. S. F. PENSION FUND,
CALCUTTA,
The 23rd November, 1888.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 039056, of the 4½ per cent. loan of 1879, for Rs. 100, originally standing in the name of Agra Bank, Limited, and last endorsed to Jamsetjee Cursetjee Jamsetjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

JAMSETJEE CURSETJEE JAMSETJEE.

Manager Calcutta,
Bengal,
The 14th November, 1888.

Lost.

The Government Promissory Notes, Nos. 247700, 194173, 236645, and A034705, of the 4 per cent. loan of 1865 and 1879, for Rs. 5,000, Rs. 2,000, Rs. 1,000, and Rs. 1,000, respectively, standing in the name of Pandit Kanhya Lall, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

PANDIT KANHYA LALL,
Dy. Collr. & Treasury Officer.

MUZAFFARNAGAR IN N.-W. P.,
The 16th November, 1888.

Destroyed by Fire.

The Government Promissory Notes, described below, originally standing in the name of John Quadros, by whom they were endorsed to the undersigned, were destroyed by fire on the 14th April, 1888. Application will be made to the Public Debt Office for issue of their duplicates:—

No. 042456, of 4½ per cent. loan of 1879, for Rs. 1,000.

No. 042457, of 4½ per cent. loan of 1879, for Rs. 1,000.

No. 042458, of 4½ per cent. loan of 1879, for Rs. 1,000.

No. 031472, of 4½ per cent. loan of 1879, for Rs. 500.

No. 031473, of 4½ per cent. loan of 1879, for Rs. 500.

C. J. QUADROS.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 15, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost.

The Government Promissory Note, No. 039056, of the 4½ per cent. loan of 1879, for ₹100, originally standing in the name of Agra Bank, Limited, and last endorsed to Jamsetjee Cursetjee Jamsetjee, the proprietor, by whom it was never endorsed to any other person, having been lost, notice is hereby given that payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and that application is about to be made for the issue of a duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned security.

JAMSETJEE CURSETJEE JAMSETJEE.

MAZAGON CASTLE,
BOMBAY,

The 14th November, 1888.

Lost.

The Government Promissory Notes, Nos. 247700, 194173, 236645, and A034705, of the 4 per cent. loan of 1865 and 1879, for ₹5,000, ₹2,000, ₹1,000, and ₹1,000, respectively, standing in the name of Pandit Kanhya Lall, the proprietor, by whom they were never endorsed to any other person, having been lost, notice is hereby given that payment of the

above notes and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, Calcutta, and that application is about to be made for the issue of duplicates in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the abovementioned securities.

PANDIT KANHYA LALL,
Dy. Collr. & Treasury Officer.

MUZAFFARNAGAR IN N.-W. P.,
The 16th November, 1888.

Destroyed by Fire.

The Government Promissory Notes, described below, originally standing in the name of John Quadros, by whom they were endorsed to the undersigned, were destroyed by fire on the 14th April, 1888. Application will be made to the Public Debt Office for issue of their duplicates:—

No. 042456, of 4½ per cent. loan of 1879, for ₹1,000.

No. 042457, of 4½ per cent. loan of 1879, for ₹1,000.

No. 042458, of 4½ per cent. loan of 1879, for ₹1,000.

No. 031472, of 4½ per cent. loan of 1879, for ₹500.

No. 031473, of 4½ per cent. loan of 1879, for ₹500.

C. J. QUADROS.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 22, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

PROMISSORY NOTES.

Lost or Stolen.

The Government Promissory Note, No. 152712, of the 4 per cent. loan of 1865, for Rs. 1,000, originally standing in the name of Thomas Jones, and last endorsed to Poorno Chunder Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest and for the issue of a duplicate in favour of the proprietor after two years from date of last advertisement.

POORNO CHUNDER CHATTERJEE,
Konnagar.

Destroyed by Fire.

The Government Promissory Notes, described below, originally standing in the name of John Quadros, by whom they were endorsed to the undersigned, were destroyed by fire on the 14th April, 1888. Application will be made to the Public Debt Office for issue of their duplicates:—

No. 042456, of 4½ per cent. loan of 1879, for Rs. 1,000.

No. 042457, of 4½ per cent. loan of 1879, for Rs. 1,000.

No. 042458, of 4½ per cent. loan of 1879, for Rs. 1,000.

No. 031472, of 4½ per cent. loan of 1879, for Rs. 500.

No. 031473, of 4½ per cent. loan of 1879, for Rs. 500.

C. J. QUADROS.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 29, 1888.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

NOTICE.

The Fifty-first Annual General Meeting of Subscribers of the above Institution will be held in the Town Hall, on Saturday, the 26th January, 1889, at 3 P.M., to receive the report of the Directors and to consider such other matters as may then be submitted.

By order of the Directors,

W. H. RYLAND,

Secretary.

CALCUTTA,

The 21st December, 1888.

PROMISSORY NOTES.

Lost or Stolen.

The Government Promissory Note, No. 152712, of the 4 per cent. loan of 1865, for Rs. 1,000, originally standing in the name of Thomas Jones, and last endorsed to Poorno Chunder Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for accrued interest and for the issue of a duplicate in favour of the proprietor after two years from date of last advertisement.

POORNO CHUNDER CHATTERJEE,

Konnagar.

DESCRIPTION OF INSTRUMENT.		PROPER STAMP-DUTY.	
	Rs.	Rs. A. P.	
And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000		0 3 0	
iii. In respect of an original policy for more than three months but not more than six months—	Rs.		
When the amount insured does not exceed . 1,000		0 4 0	
And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000		0 4 0	
iv. In respect of an original policy for a longer term than six months—	Rs.		
When the amount insured does not exceed . 1,000		0 6 0	
And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000		0 6 0	
v. In respect of renewing, for the purpose of keeping in force, a policy which has been granted for six months or any shorter term and in respect of which, and of the previous renewal whereof (if any), there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months .			
(c) In the case of any other insurance—		The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or	
		the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy, and of the previous renewal thereof (if any);	
		whichever is the smaller sum.	
	Rs.	If drawn singly.	If drawn in duplicate, for each part.
When the amount insured does not exceed . 1,000		Rs. A. P.	Rs. A. P.
		0 6 0	0 3 0
And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000		0 6 0	0 3 0

49. POLICY OF INSURANCE—continued.

S. HARVEY JAMES,

Secy. to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Stamp Act, 1879, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th January, 1888:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Stamp Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. We have made it clear that the only renewals on which stamp-duty is to be paid are renewals of fire-policies in respect of which, and of any previous renewal whereof, there has not already been paid full stamp-duty at the highest rate chargeable in respect of original policies of fire-insurance.

3. We have ascertained that it is sufficient to provide for fire-policies being drawn singly. We have proposed to amend article 49 of the schedule accordingly.

4. We have corrected a clerical error in the fourth sub-clause of clause (b) of the same article, and simplified the expression of the fifth sub-clause.

5. The Bill does not appear to us to stand in need of any other alteration.

6. We may observe that there is nothing in the Bill which will interfere with the practice, where it now obtains, of evidencing renewals of fire-policies from year to year by receipts only for premium paid. If full stamp-duty at the highest rate chargeable in respect of an original policy has once been paid, then the receipt evidencing the renewal will, if it acknowledges the payment of more than twenty rupees, be chargeable with stamp-duty of one anna only under Act I, 1879, Schedule I, article 52.

7. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	Date.
Gazette of India	28th May, 1887.
Fort Saint George Gazette	21st June, 1887.
Bombay Government Gazette	2nd June, 1887.
Calcutta Gazette	8th June, 1887.
North-Western Provinces and Oudh Government Gazette	4th June, 1887.
Punjab Government Gazette	2nd June, 1887.
Central Provinces Gazette	11th June, 1887.
Burma Gazette	18th June, 1887.
Assam Gazette	18th June, 1887.
Coorg District Gazette	1st July, 1887.

In the Vernaculars.		
Province.	Language.	Date.
Bombay	Maráthi	7th July, 1887.
	Gujaráthi	7th July, 1887.
	Kanarese	14th July, 1887.
	Bengali	26th July, 1887.
Bengal	Hindi	9th August, 1887.
	Uriya	23rd June, 1887.
North-Western Provinces and Oudh	Urdu	4th June, 1887.
Punjab	Urdu	14th July, 1887.
Central Provinces	Maráthi	13th, 20th and 27th July, 1887.

8. We do not think the Bill has been so altered as to require re-publication, and we recommend that it be passed as amended by us.

The 18th January, 1888.

J. WESTLAND.
ANDREW R. SCOBLE.
C. U. AITCHISON.
ROBERT STEEL.
DINSHA MANEKJI PETIT.

S. HARVEY JAMES,
Secy. to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 11, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th February, 1888, and is hereby promulgated for general information :—

ACT NO. II OF 1888.

An Act to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum; It is hereby enacted as follows :—

I. To the second schedule to the Indian Tariff Act, 1882, the following shall be added, namely :—
Addition to Schedule II, Act XI, 1882.

No.	Names of Articles	Per	Tariff valuation.	Rate of Duty.
5	Petroleum, including also the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance or from any products of petroleum.	Imperial gallon	...	Six pies.
Exception.—Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibre or for lubricating purposes.				

VIII of 1878. And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable; It is further enacted as follows:—

2. The rate of duty applicable to petroleum Commencement of which the bill-of-entry effect of the addition to is delivered, within the the schedule. meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act; shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as amended by this Act.

S. HARVEY JAMES,
Secretary to the Government of India.

The following Report of the Select Committee on the Bill to provide for the levy of a Customs-duty on Petroleum was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th February, 1888.

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to provide for the levy of a Customs-duty on Petroleum was referred, have considered the Bill and have the honour to submit this our Report with the Bill as amended by us annexed thereto.

2. We have proposed the imposition of a duty of six pies per imperial gallon instead of an *ad valorem* duty of five per cent., and the exception from liability to the duty of petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibre, or for lubricating purposes.

3. We do not consider that the Bill need be re-published, and we recommend that it be passed as amended by us.

J. WESTLAND.
ANDREW R. SCOBLE.
W. S. WHITESIDE.
ROBERT STEEL.
F. M. HALLIDAY.

The 10th February, 1888.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 18, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th February, 1888, and is hereby promulgated for general information:—

ACT NO. III OF 1888.

An Act to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members; It is hereby enacted as follows:—

Title, extent and commencement. I. (1) This Act may be called the Police Act, 1888.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. (1) Notwithstanding anything in Act XXIV of 1859 (an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George), Act V of 1861 (an Act for the Regulation of Police), the Bombay District Police Act, 1867, or any Act relating to the police in any presidency-town, the Governor General in Council may, by notification in the Gazette of India, create a general police district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 of a police-force for service therein.

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V of 1861, the Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council, or by such Local Government or other authority as the Governor General in Council may appoint, and the functions of the Inspector General of Police, Deputy Inspectors General, Assistant Inspectors General, District Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor General in Council may make in this behalf, members of a police-force enrolled for service in a general police district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under Act V of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section may, subject to any orders which the Governor General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in

Bom. Act VII of 1867.

that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor General in Council may make in this behalf, a part of a presidency, province or place included in a general police district under sub-section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency, province or place of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, Act V of 1861 shall, notwithstanding anything in section 46

of that Act, be deemed to take effect throughout the whole of British India.

3. Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section, but subject to any orders which the Governor General in Council may make in this behalf, a member of the police-establishment of any presidency, province or place may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers, functions and privileges, and be subject to the liabilities, of a police-officer belonging to that establishment.

S. HARVEY JAMES,
Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the law relating to the Regulation of Police was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th February, 1888 :—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to the Regulation of Police was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have provided in sub-section (1) of section 2 of the Bill that a part of a presidency-town may be included in a general police district created under that sub-section.

3. By sub-section (2) of the same section we have proposed to enable the authority controlling the police-force enrolled for service in such a district to discharge certain functions which the Code of Criminal Procedure assigns to the Local Government.

4. By sub-sections (3) and (4) of the same section we have provided for the exercise by officers of a special police-force of the powers of police-officers in places beyond the limits of the general police district for service in which they have been enrolled.

5. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	Date.
Gazette of India	8th October, 1887.
Fort St. George Gazette	13th October, 1887.
Bombay Government Gazette	10th November, 1887.
Calcutta Gazette	19th October, 1887.
North-Western Provinces and Oudh Government Gazette	15th October, 1887.
Punjab Government Gazette	14th October, 1887.
Central Provinces Gazette	27th October, 1887.
Burma Gazette	29th October, 1887.
Assam Gazette	2nd December, 1887.
Coorg District Gazette	1st November, 1887.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Maráthi	1st December, 1887.
	Gujaráthi	24th November, 1887.
	Kanarese	24th November, 1887.
Bengal	Bengali	15th November, 1887.
	Hindi	22nd and 29th November, and 6th December, 1887.
Central Provinces	Uriya	17th November, 1887.
Burma	Maráthi	7th December, 1887.
	Burmese	19th November, 1887.

6. We do not think the Bill has been so altered as to require re-publication, and we recommend that it be passed as amended by us.

C. U. AITCHISON.
ANDREW R. SCOBLE.
C. A. ELLIOTT.
J. WESTLAND.
J. W. QUINTON.

The 9th February, 1888.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 3, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March, 1888, and is hereby promulgated for general information:—

ACT NO. IV OF 1888.

An Act to regulate Her Majesty's Indian Reserve Forces.

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Reserve Forces Act, 1888; and

(2) It shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

4. The Governor General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

(a) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order, he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

Act V of 1869.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into

and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make any person already in the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 17, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th March, 1888, and is hereby promulgated for general information:—

ACT NO. V OF 1888.

THE INVENTIONS AND DESIGNS ACT, 1888.

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*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 1-4.)*

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THE SECOND SCHEDULE.—APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

THE THIRD SCHEDULE.—APPLICATION WHERE PATENT HAS BEEN OBTAINED.

THE FOURTH SCHEDULE.—FEES (*Inventions*).

THE FIFTH SCHEDULE.—APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

THE SIXTH SCHEDULE.—FEES (*Designs*).*An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.*

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

- I. (1) This Act may be called the Inventions and Designs Act, 1888.
- (2) It shall extend to the whole of British India; and
- (3) It shall come into force on the first day of July, 1888.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows:—

PART I.—INVENTIONS.

PART II.—DESIGNS.

PART I:
INVENTIONS.

4. In this Part, unless there is something repugnant in the subject or context,—

(1) "invention" includes an improvement;

(2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor;

(3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not;

(4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term;

(5) "inventor", "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be;

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture;

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance;

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary, assistant-secretary, or other officer subordinate to the Government of India to the extent to which such officer may be authorised by general or special order of the Governor General in Council to discharge any of those functions;

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure; and

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 5-9)*

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

6. (1) Upon an application under the last Order to file specification foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such enquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council

to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions; namely:—

(a) the time for making a payment shall not in any case be enlarged for more than three months; and

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. (1) A specification filed under this Part Form and contents must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 10-15.)*

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma, and the others, if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

(2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 16-21.)*

by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

17. (1) Subject to any conditions imposed under the last foregoing section—

(a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any misstatement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum point-

ing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person shall not be entitled to an exclusive privilege under this Part—

(a) if the invention is of no utility, or
(b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or

(c) if the applicant is not the inventor thereof, or

(d) if the original or any amended specification does not fulfil the requirements of this Part, or

(e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or

(f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the territories under the suzerainty of the British Government.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 22—29.)*

specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within

the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 30—34.)*

wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be:

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or
- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive pri-

vilage in respect of any part of an invention, to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule) that is to say:—

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

33. (1) Any person authorised by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 35-38.)*

is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency: or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient; and thereupon the applicant shall, within

a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor,

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 39-43.)*

and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

39. A Court making a decree in a suit under section 29 or section 38, or copies of decrees and an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration of cessation of exclusive privilege. 40. In the following cases, namely:—

- (a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired;
- (b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege;
- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section;
- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38;

(f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

43. If on the petition of any person interested it is proved to the Governor General in Council or General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

- (a) the exclusive privilege is not being worked in British India, or
- (b) the reasonable requirements of the public with respect to the invention cannot be supplied, or
- (c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

*The Inventions and Designs Act, 1888.**(Part I.—Inventions.—Sections 44-49.—(Part II.—Designs.—Sections 50-52.)*

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorised by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.

DESIGNS.

50. In this Part, unless there is something repugnant in the subject or context,—

Definitions.

(1) "design" means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself:

(2) "copyright" means the exclusive right to apply a design to an article:

(3) the author of any new and original design shall be considered the "proprietor" thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the "proprietor", and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the "proprietor" of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise: and

(4) "Secretary", "District Court" and "High Court" have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

Registration in register of designs.

*The Inventions and Designs Act, 1888.**(Part II.—Designs.—Sections 53-61.)*

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an

entry thereof to be made in the register of designs.

58. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

61. The provisions of the following portions of Part I, namely:—

- (a) section 11, with respect to copies of specifications,
 - (b) section 14, with respect to the register of inventions and the matters entered therein, and
 - (c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,
- shall, so far as they can be made applicable, apply, respectively, to—

- (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
- (b) the register of designs and the matters entered and documents referred to therein, and
- (c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

*The Inventions and Designs Act, 1888.**(Part II.—Designs.—Sections 62-63. The First Schedule.—Enactments repealed.**(The Second Schedule.—Application where Patent has not been obtained. The Third Schedule.—Application where Patent has been obtained.)*

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

63. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883	Protection of Inventions Act, 1883.	The whole.
I of 1879	Indian Stamp Act, 1879.	Article 48, Schedule I.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of *(here insert name, occupation and address)* for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for *(state the title of the invention)*; he is the inventor thereof *(or, as the case may be, the executor, administrator or assign of the inventor)*; and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention *(here describe it and the particular novelty whereof it consists)*.

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of *(here insert name, occupation and address)* for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant *(or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign)* has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for *(state the title of the invention)*.

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention *(here describe it and the particular novelty whereof it consists)*.

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

*(Signature and verification.)**The Inventions and Designs Act, 1888.**(The Fourth Schedule.—Fees (Inventions). (The Fifth Schedule.—Application for Order for Registration of Design.) The Sixth Schedule.—Fees (Designs).)*

THE FOURTH SCHEDULE.

FEES (Inventions).

(See sections 8, 15 and 48.)

	Rs. a. p.
(1) in respect of an application for leave to file a specification (section 5)	10 0 0
(2) in respect of the filing of a specification (section 8)	30 0 0
(3) in respect of an extension of the time for filing a specification (section 8)	20 0 0
(4) in respect of the continuance of an exclusive privilege (section 8)—	
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof	50 0 0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date	50 0 0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date	50 0 0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date	50 0 0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date	50 0 0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date	100 0 0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date	100 0 0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date	100 0 0
(i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date	100 0 0
(j) after the expiration of the twelfth year and before the expiration of the thirteenth year from that date	100 0 0
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.	
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—	
(i) if the enlargement does not exceed one month	10 0 0
(ii) if the enlargement exceeds one month, but does not exceed two months	25 0 0
(iii) if the enlargement exceeds two months	50 0 0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15)	50 0 0
(7) in respect of an order extending the term of an exclusive privilege (section 15)	100 0 0
(8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15)	100 0 0
to be paid before the expiration of each year of the extended term:	
(9) in respect of an application for leave to file a memorandum or amended specification (section 18)	20 0 0
(10) in respect of a petition to the Governor General in Council for a compulsory license (section 43)	50 0 0

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

THE FOURTH SCHEDULE—continued.

	Rs. a. p.
(11) for the inspection of any book or other document which is open to inspection under Part I	1 0 0
(12) for copies—	
(a) when the number of words copied does not exceed four hundred	1 0 0
(b) for every hundred words in excess of four hundred	0 4 0
(c) of drawings or photographs	cost according to agreement.
(13) for certifying copies—	
for every hundred words	0 2 0

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

The application of *(here insert name, occupation and address)* for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief, that design is within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

3. copies of *(drawings), (photographs), (tracings)* of the design accompany this application.

4. The following is a statement of the nature of the design *(here describe its nature)*.

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.

(Signature.)

THE SIXTH SCHEDULE.

FEES (Designs).

(See section 62.)

	Rs. a. p.
(1) in respect of an application for an order for the registration of a design (section 51)	10 0 0
(2) in respect of a mutation of names in the register of designs (section 56)	5 0 0
(3) for the inspection of any book or other document which is open to inspection under Part II	1 0 0
(4) for copies—	
(a) when the number of words copied does not exceed four hundred	1 0 0
(b) for every hundred words in excess of four hundred	0 4 0
(c) of drawings, photographs or tracings	cost according to agreement.
(5) for certifying copies—	
for every hundred words	0 2 0

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 24, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd March, 1888, and is hereby promulgated for general information :—

ACT NO. VI OF 1888.

An Act to amend the law relating to Imprisonment for Debt.

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

Title, commencement and extent. 1. (1) This Act may be called the Debtors Act, 1888; and

(2) It shall come into force at once.

(3) The several portions thereof have the same local extent as the enactments to which they respectively relate.

2. After section 245 of the Code of Civil Procedure the following sections shall be inserted, namely :—

"245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

"245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

"(2) If appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor."

3. In section 250 of the said Code, between the word "shall" and the word "issue", the following shall be inserted, namely :—

"subject to the provisions of sections 245A and 245B,".

4. After section 337 of the said Code the following shall be inserted, namely :—

"337A. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such

terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release; as the case may be.

"(2) Before making an order under sub-section (1), the Court may take into consideration any allegation of the decreeholder touching any of the following matters, namely:—

- (a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;
- (b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decreeholder in the execution of the decree;
- (c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;
- (d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it;
- (e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

"(3) While any of the matters mentioned in sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

"(4) A judgment-debtor released under this section may be re-arrested.

"(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail."

5. To section 380 of the said Code the following shall be added, namely:—

"On the application of any defendant in a suit for money in which the plaintiff is a woman the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit."

6. In section 640 of the said Code, after the words "from arrest in execution of civil process" the words "in any case in which the arrest of women is not prohibited by this Code" shall be added.

7. In section 642 of the said Code, for the words and figures "except as provided in sections 256 and 643" the following shall be substituted, namely:—

"except as provided in section 337A, sub-section (5), and sections 256 and 643."

8. After section 652 of the said Code the following shall be added, namely:—

"653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

"(2) When a judgment-debtor has been arrested under this Code the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

"(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

- (a) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or
- (b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

"(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be."

9. The last sixteen words of section 8 of the Married Women's Property Act, 1874, and the whole of section 31 of the Ajmere Courts Regulation, 1877, are hereby repealed.

10. (1) For the first fifty-five words of section 48 of the Act of the Government of Fort St. George in Council, No. VIII of 1865, the following shall be substituted, namely:—

"No person shall be imprisoned as a defaulter for a longer period than six months whatever the amount of the arrears may be, nor for a longer period than six weeks if the arrears do not exceed fifty rupees."

(2) For the proviso to section 163 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

"Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed six weeks when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months in any other case."

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 23rd March, 1888, and is hereby promulgated for general information:—

ACT NO. VII OF 1888.

An Act to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.

WHEREAS it is expedient to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877; It is hereby enacted as follows:—

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1888; and

(2) It shall come into force on the first day of July, 1888.

2. (1) In this Act, unless there is something repugnant in the subject or context, "section" means a section, "schedule" a schedule, and "Chapter" a Chapter, of the Code of Civil Procedure.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

3. The following shall be inserted after section 4, namely:—

"4 A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

"(2) 'Revenue Court' in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent,

revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force."

4. The second paragraph of section 8 is hereby repealed.

5. To section 14 the following shall be added, namely:—

"Where a suit is instituted in British India on the judgment of any foreign Court in Asia or Africa except a Court of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Consular Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed."

6. The following shall be inserted after section 16, namely:—

"16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immovable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

"Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

"(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto."

7. In section 17, after Explanation II, the following shall be inserted, namely:—

"EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely:—

- (i) the place where the contract was made;
- (ii) the place where the contract was to be performed or performance thereof completed;
- (iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable."

8. In section 27 there shall be inserted after the words "the Court may" the words "at any stage of the suit", and after the words "any other person or persons" the words "with his or their consent".

9. For section 53 the following shall be substituted, namely:—

"53. The plaintiff may, at the discretion of the Court,—

- (a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action;
- (b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—
 - (i) is not signed and verified as hereinbefore required,
 - (ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,
 - (iii) is wrongly framed by reason of nonjoinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or
 - (iv) is not framed in accordance with the provisions of section 42;
- (c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit:

"Provided that a plaintiff shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

"When a plaintiff is amended under this section the amendment shall be attested by the signature of the Judge."

10. For section 72 the following shall be substituted, namely:—

"72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the sum-

mons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

"(2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct."

11. In section 82, for the first twenty words the following shall be substituted, namely:—

"When a summons is returned under section 80, the Court shall if the return under that section has not been verified by the affidavit of the serving-officer, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings."

12. For section 90 the following shall be substituted, namely:—

"90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service."

13. For sections 141 and 142 the following shall be substituted, namely:—

"141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:—

- (a) the number and title of the suit,
- (b) the name of the person producing the document,
- (c) the date on which it was produced, and
- (d) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge.

"(2) If a document so admitted is an entry in a book, account or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

"141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

"(2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a

party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (i) where the record, book or account is produced on behalf of a party, then by that party, or
- (ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

"(3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

"(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them."

14. In section 143, for the words and figures "sections 62, 141 and 142" there shall be substituted the following, namely:—

"section 62, section 141A, sub-section (3), or section 142A, sub-section (2)."

15. In section 159 the words "or sent" shall be inserted after the word "delivered".

16. In section 168, for the words "shall examine the serving-officer on oath" the following shall be substituted, namely:—"shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court."

17. The following shall be inserted after section 185, namely:—

"185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or falling under a description set forth therein, that

evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.

"(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

"(3) Evidence taken down under sub-section (1) or sub-section (2) shall be in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.

"(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1)."

18. For section 191 the following shall be substituted, namely:—

"191. (1) Where the Judge taking down any evidence, or causing any evidence taken down by another Judge, under this Chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it.

"(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25:

"Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh."

19. To section 193 the following shall be added, namely:—

"A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173."

20. (1) In section 209, for the first thirteen words the words "When a decree is for the payment of money" shall be substituted.

"(2) To the same section the following shall be added, namely:—

"Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

21. (1) In section 216, for the first twenty-four words the following shall be substituted, namely:—

"If the defendant has been allowed a set-off against the claim of the plaintiff."

(2) To the same section the following shall be added, namely:—

"The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise."

22. In section 223, for the words "in a case cognizable by a Court of Small Causes" the following shall be substituted, namely:—

"in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes."

23. In section 229, after the word "established" the words "or continued" shall be inserted.

24. After section 229 the following shall be inserted, namely:—

"229A. So much of the foregoing sections of this Chapter as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply."

25. The last paragraph of section 230 is hereby repealed.

26. (1) In section 244, for clause (c) the following shall be substituted, namely:—

"(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof."

(2) To the same section the following shall be added, namely:—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

27. For the last paragraph of section 258 the following shall be substituted, namely:—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

28. (1) In the first proviso to section 266, clause (a), the words "and bedding" shall be inserted after the word "apparel".

(2) In the same proviso, clause (b), after the word "cattle" the words "and seed-grain" shall be inserted.

(3) In the same proviso, for clause (h) the following shall be substituted, namely:—

"(h) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

(i) the whole of the salary where the salary does not exceed twenty rupees monthly;

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly; and

(iii) one moiety of the salary in any other case."

(4) To the same proviso, after clause (l), the following shall be added, namely:—

"(m) any allowance declared by any law passed under the Indian Councils Act, 24 & 25 Vic. 1861, by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree;

"(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law applicable to him is exempt from sale for the recovery of an arrear of such revenue."

(5) In the Explanation to the same proviso, for the word and letter "and (j)" the letters and word "(j) and (m)" shall be substituted.

29. In section 289 the words "on the spot where the property is attached" are hereby repealed.

30. To section 320 the following shall be added, namely:—

"Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and

may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

"A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

"In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII of 1850 (*an Act for the protection of Judicial Officers*).

31. (1) In section 349, for the words "is under arrest" the words "is in custody under the foregoing provisions of this Code" shall be substituted.

(2) In section 354, between the word "and" and the words "shall operate" the words "every order under that section appointing a Receiver" shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely:—

"A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made, in execution of a decree for money passed by that Court."

(4) At the end of Chapter XX the following shall be inserted, namely:—

"360A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay."

32. (1) For sections 363 and 364 the following shall be substituted, namely:—

"363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit."

(2) For section 365 the following shall be substituted, namely:—

"365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit."

(3) To section 368 the following shall be added, namely:—

"The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon."

(4) After section 372 the following shall be added, namely:—

"372A. The provisions of section 5 of the XV of 1877.

Power for Court to extend period of limitation prescribed for certain applications. Indian Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371."

33. To section 381 the following shall be added, namely:—

"or show good cause why such time should be extended, in which case the Court may extend it."

"Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit."

"The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application."

"The provisions of the Indian Limitation Act, XV of 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively."

34. In section 386, for the words "or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint" the following shall be substituted, namely:—

"or to any pleader or other person whom the

Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint."

35. In section 419, after the words "Govern-
Amendment of sec- ment Pleader in any Court"
tion 419. the words "or such other
person as the Local Government may for any
Court appoint in this behalf" shall be inserted.

36. In section 424, after the words "intend-
ing plaintiff" the words
Amendment of section "and the relief which he
424. claims" shall be inserted.

37. (1) In section 432, after the words "Brit-
ish India" the following
Amendment of section shall be inserted, name-
432. ly:—

"or at the request of any person competent
in the opinion of the Government to act on
behalf of such Prince or Chief."

(2) To the same section the following shall
be added, namely:—

"An appointment under this section may be
made for the purpose of a specified suit or of
several specified suits, or for the purpose of
all such suits as it may from time to time be
necessary to prosecute or defend on behalf of
the Prince or Chief.

"A person appointed under this section may
authorise or appoint persons to make and do
appearances, applications and acts in any such
suit or suits as if he were himself a party to the
suit or suits."

38. For section 433 the
Substitution of new following shall be substitut-
section for section 433. ed, namely:—

"433. (1) Any such Prince or Chief, and any
ambassador or envoy of a
Foreign State, may, with
the consent of the Governor
General in Council, certified
by the signature of one of the Secretaries to the
Government of India (but not without such
consent), be sued in any competent Court.

(2) Such consent may be given with respect
to a specified suit or to several specified suits, or
with respect to all suits of any specified class or
classes, and may specify, in the case of any suit
or class of suits, the Court in which the Prince,
Chief, ambassador or envoy may be sued; but it
shall not be given unless the Prince, Chief,
ambassador or envoy—

(a) has instituted a suit in the Court against
the person desiring to sue him, or

(b) by himself or another trades within the
local limits of the jurisdiction of the
Court, or

(c) is in possession of immoveable property
situate within those limits and is to be
sued with reference to such possession
or for money charged on that pro-
perty.

(3) No such Prince, Chief, ambassador or
envoy shall be arrested under this Code, and,

except with the consent of the Governor General
in Council certified as aforesaid, no decree shall
be executed against the property of any such
Prince, Chief, ambassador or envoy.

"(4) The Governor General in Council may,
by notification in the Gazette of India, authorise
a Local Government and any Secretary to that
Government to exercise, with respect to any
Prince, Chief, ambassador or envoy named in
the notification, the functions assigned by the
foregoing sub-sections to the Governor General
in Council and a Secretary to the Government
of India, respectively.

"(5) A person may, as a tenant of immove-
able property, sue, without such consent as is
mentioned in this section, a Prince, Chief,
ambassador or envoy from whom he holds or
claims to hold the property."

39. (1) Section 434 shall become section
229B, and any reference
Transposition and made before the commence-
amendment of section ment of this Act in any
434. notification or other document to section 434
shall be read as a reference to section 229B.

(2) In section 229B, the words "or contin-
ued" shall be inserted after the word "estab-
lished".

40. After section 433 the
Insertion of new sec- following section shall be
tion 434. inserted, namely:—

"434. A Sovereign Prince
or ruling Chief may sue, and
shall be sued, in the name
of his State:

"Provided that in giving the consent referred
to in the last foregoing section the Governor
General in Council or Local Government, as the
case may be, may direct that any such Prince
or Chief shall be sued in the name of an agent
or in any other name."

41. To section 464 the
Addition to section following shall be prefixed,
464. namely:—

"Nothing in this Chapter applies to a So-
vereign Prince or ruling
Chief suing or being sued
in the name of his State
or being sued, by direction of the Governor
General in Council or a Local Government, in the
name of an agent or in any other name, and".

42. In section 503, clause (d), the words "as
the Court thinks fit" shall
Amendment of sec- be inserted after the words
tion 503. "by way of remuneration".

43. In section 504, for the words "the Court
may appoint the Collector"
Amendment of sec- the words "the Court may,
tion 504. with the consent of the Col-
lector, appoint him" shall be substituted.

44. In section 539, for the words "having a
direct interest" the words
Amendment of sec- "having an interest" shall
tion 539. be substituted.

45. To section 540 the
Addition to section following shall be added,
540. namely:—

"An appeal may lie under this section from
an original decree passed *ex parte*."

46. To section 549 the
Addition to section following shall be added,
549. namely:—

"If such security be furnished, any costs for
which a surety may have rendered himself liable
may be recovered from him in execution of the
decree of the Appellate Court in the same
manner as if he were the appellant."

47. (1) For section 551
the following shall be sub-
stitution of new substituted, namely:—
section for section 551.

"551. (1) The Appellate Court, if it thinks
fit, may, after fixing a day
Power to dismiss ap- for hearing the appellant or
peal without sending his pleader and hearing him
notice to Lower Court. accordingly if he appears on that day, dismiss
the appeal without sending notice of the appeal
to the Court against whose decree the appeal is
made and without serving notice on the re-
spondent or his pleader.

(2) If on the day fixed under sub-section (1)
or any other day to which the hearing may be
adjourned the appellant does not attend in per-
son or by his pleader, the appeal shall be dis-
missed for default.

(3) The dismissal of an appeal under this
section shall be notified to the Court against
whose decree the appeal is made."

(2) For the first paragraph of section 552 the
following shall be substituted, namely:—

"Unless the Appellate Court dismisses the
appeal under the last foregoing section, it shall
fix a day for hearing the appeal."

(3) In section 558 the words and figures "sec-
tion 551, sub-section (2)," shall be inserted be-
fore the word and figures "section 556".

48. (1) For the proviso to the first paragraph
of section 561 the following
Amendment of, and shall be substituted, name-
addition to, section 561. ly:—

"Provided he has filed the objection in the
Appellate Court within one month from the
date of the service on him or his pleader under
section 553 of notice of the day fixed for
hearing the appeal, or within such further time
as the Appellate Court may see fit to allow."

(2) To the same section the following shall be
added, namely:—

"Unless the respondent files with the objec-
tion a written acknowledgment from the appel-
lant or his pleader of having received a copy
thereof, the Appellate Court shall cause such
a copy to be served, as soon as may be after

the filing of the objection, on the appellant or
his pleader, at the expense of the respondent.

"The provisions of Chapter XLIV shall, so far
as they can be made applicable, apply to an
objection under this section."

49. (1) In section 562 the words "so as to
exclude any evidence of fact
Amendment of sec- which appears to the Appel-
tion 562. late Court essential to the determination of the
rights of the parties" are hereby repealed.

(2) In the same section, for the word "in-
vestigate" the word "determine" shall be sub-
stituted.

50. Section 563 is hereby
repealed.

51. In section 565, for the word "shall" the
Amendment of word "may" shall be substi-
section 565. tuted.

52. (1) In section 566 the words "and the
evidence upon the record is
Amendment of sec- not sufficient to enable the
tion 566. Appellate Court to determine such issue or ques-
tion" are hereby repealed.

(2) In the same section, between the words
"the Appellate Court may" and the words
"frame issues" the words "if necessary" shall
be inserted.

53. (1) In section 582, for the words "the words
'plaintiff', 'defendant' and
Amendment of sec- 'suit' shall be held to in-
tion 582. clude an appellant, a respondent and an appeal,
respectively," the following shall be substituted,
namely:—

"the word 'plaintiff' shall be held to include
a plaintiff-appellant or defendant-appellant, the
word 'defendant' a plaintiff-respondent or de-
fendant-respondent, and the word 'suit' an
appeal".

(2) In the same section, the words and figures
"including those of section 372A," shall be
inserted after the words "The provisions here-
inbefore contained".

54. To section 584 the
Addition to section following shall be added,
584. namely:—

"An appeal may lie under this section from
an appellate decree passed *ex parte*."

55. (1) In section 588, clause (9), for the word
"or" the word "for" shall
Amendment of sec- be substituted.
tion 588.

(2) In the same section, clause (16), for the
words "the first paragraph of" the words "and
orders under" shall be substituted.

56. The first paragraph of section 589, and
the word "other" in the
Repeal of part of sec- second paragraph of that
tion 589. section, are hereby repealed.

57. Section 599, and in section 601 the words
"within thirty days from
Repeal of section 599 the date of the order", are
and part of section 601. hereby repealed.

58. After the second paragraph of section 610 Addition to section the following shall be inserted, namely:—

"In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant:

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

59. To section 626 the following proviso shall be added, namely:—

"and

"(c) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor."

60. After section 646 the following shall be inserted, namely:—

"646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.

"(2) On receiving the record and statement the High Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

"646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

"(2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.

"(3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

"(4) A Court subordinate to a District Court shall comply with any requisition which the

District Court may make for any record or information for the purposes of this section."

61. (1) For the third paragraph of section 648 Amendment of, and the following shall be substituted:—

"and the Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him."

(2) To section 648 the following shall be added, namely:—

"Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court."

62. In section 650A, the words "or continued" shall be inserted after the word "established".

63. To section 652 the following shall be added, namely:—

"A High Court not established under the Statute 24 & 25 Victoria, chapter 104 (*an Act for establishing High Courts of Judicature in India*) may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person".

65. (1) After clause (n) of section 17 of the Indian Registration Act, 1877, as amended by the Indian Registration Act, VII of 1886.

1886, the following clause shall be added, namely:—

"(o) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer."

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

(3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII of 1879 (*an Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877*):

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

66. (1) No. 161 of the second schedule to the Indian Limitation Act, 1877, shall be transposed and become No. 173A, and the entry against it in the second column of that schedule shall be "Ditto", signifying ninety days.

(2) Nos. 171, 171A and 171B of the same schedule are hereby repealed.

(3) For No. 171C of the same schedule the following shall be substituted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
*	*	*
171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	Sixty days.	The date of the order for abatement or dismissal.

(4) After No. 175 of the same schedule the following shall be inserted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	Six months	The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant.
175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 8, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th September, 1888, and is hereby promulgated for general information:

ACT NO. VIII OF 1888.

An Act to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor-General in Council, No. VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV of 1864 (*an Act to amend Act VIII of 1851*); It is hereby enacted as follows:—

1. Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and, from the twenty-first day of August, 1857, and the twenty-fourth day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII of

1851 and XV of 1864 may be or have been extended, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851.

(2) "Presidency", where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

3. All tolls levied, or purporting to have been levied, under Acts of past Validation of past VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July, 1888.

5. In section 2 of Act VIII of 1851 the words "and the Governor of the Presidency of Bombay in Council" are hereby repealed, and the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council."

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th September, 1888, and is hereby promulgated for general information:

ACT NO. IX OF 1888.

An Act to repeal certain enactments relating to Contagious Diseases.

WHEREAS it is expedient to repeal certain enactments relating to contagious diseases; It is hereby enacted as follows:—

- I. The enactments specified in the schedule are repealed to the extent mentioned in the third column thereof.

THE SCHEDULE.
ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor-General in Council.</i>		
XIV of 1868.	Indian Contagious Diseases Act, 1868.	So much as has not been repealed.
XXVI of 1868.	Municipal Lock-hospitals.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
IV of 1884	Madras District Municipalities Act, 1884.	The words "the application of the Indian Contagious Diseases Act" in section 113.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 22, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 20th September, 1888, and is hereby promulgated for general information:

ACT NO. X OF 1888.

An Act to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

2. For section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be substituted, namely:—"Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require."

(a) For the second schedule to the same Act there shall be substituted the schedule in the first schedule to this Act.

3. Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in

force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

3. To section 589 of the Code of Civil Procedure the following shall be added, namely:—"Provided that an appeal from an order specified in section 588, clause (17), shall lie—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case."

4. Act VIII of 1880 (an Act to correct a clerical error in the Indian Limitation Act, 1877) and XV of 1887, section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed.

THE FIRST SCHEDULE TO THIS ACT.

(See section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and the Procedure, except section 17 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Of Discovery and the Admission, &c., of Documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.

CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to sales under 297), 294 to 303 (both inclusive),

328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVI.—Suits by Paupers.

CHAPTER XXVII.—Suits by and against Government or Government Servants.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

CHAPTER XXXVI.—Appointment of Receivers.

CHAPTER XXXVII.—Reference to Arbitration.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.

CHAPTER XLVI.—Reference to and Revision by High Court.

CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.

CHAPTER XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY: Section 2, Interpretation-clause.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.

CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.

CHAPTER XI.—Settlement of Issues, sections 150 and 151.

CHAPTER XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 173.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

CHAPTER XVIII.—Of Costs.

CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230,

first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVII.—Suits by or against Government or Public Officers.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.

CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.

CHAPTER XXXVI.—Appointment of Receivers, section 503.

CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.

CHAPTER XLVI.—Of Reference to and Revision by High Court.

CHAPTER XLIX.—Miscellaneous.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 6, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th October, 1888, and is hereby promulgated for general information:

ACT NO. XI OF 1888.

An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows:—

Addition of section to Act XIII of 1885. I. The following section shall be added to that Act, namely:—

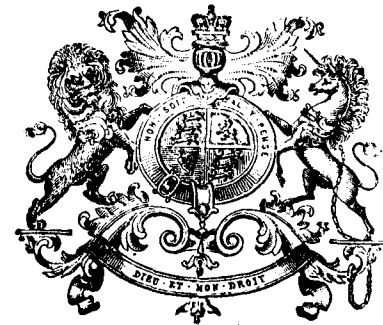
Application of Act to presidency-towns and Rangoon. "34. (1) This Act, in its application to the presidency-towns, shall be read as if for the words 'District Magistrate' in section 16, sub-section (1),

and section 17, sub-sections (2) and (3), for the words 'Magistrate of the first or second class' in section 18, sub-section (1), and for the word 'Magistrate' in section 18, sub-section (2), there had been enacted the words 'Commissioner of Police', and for the words 'District Judge' in section 16, sub-sections (3), (4) and (5), the words 'Chief Judge of the Court of Small Causes'.

(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words 'District Judge', wherever they occur in that section, there had been enacted the words 'Judge of the Court of Small Causes'.

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882." XV of 1882.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 27, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1888, and is hereby promulgated for general information:

ACT NO. XIII OF 1888.

An Act to amend the Punjab Courts Act, 1884.

WHEREAS it is expedient to amend the Punjab Courts Act, 1884; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Punjab Courts Act, 1888.

(2) It has the same local extent as the Punjab Courts Act, 1884; and,

(3) Except in so far as it amends section 43 of that Act, it shall come into force on the sixteenth day of November, 1888.

(4) In so far as it amends that section, it shall come into force on the first day of January, 1889.

Substitution of new section for section 3, Act XVIII, 1884. 2. For section 3 of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

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

Definitions. "(1) 'small cause' means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887:

"(2) 'land-suit' means a suit relating to land as defined in section 4, clause (1), of the Punjab Tenancy Act, 1887, or to any right or interest in such land:

"(3) 'unclassified suit' means a suit which is neither a small cause nor a land-suit: and

"(4) 'value', used with reference to a suit, means the amount or value of the subject-matter of the suit."

3. The proviso to section 8, sub-section (1), of the Punjab Courts Act, 1884, is hereby repealed.

Amendment of section 14, sub-section (1), clause (b), Act XVIII, 1884. 4. For clause (b) of section 14, sub-section (1), of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

"(b) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Punjab, regulating the conduct of business by persons so practising, and determining the authority by which breaches of rules under this clause shall be tried."

Substitution of new Chapter for Chapter IV, Act XVIII, 1884. 5. For Chapter IV of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

"CHAPTER IV.

"APPELLATE JURISDICTION IN CIVIL CASES.

Appeals from original decrees. "39. Save as otherwise provided by any enactment for the time being in force, appeals from decrees of Courts

exercising original jurisdiction shall lie as follows, namely:—

- (a) to the District Judge from a decree of a Munsif in a small cause of value not exceeding five hundred rupees or in an unclassified suit of value not exceeding one hundred rupees;
- (b) to the Chief Court from a decree of a Subordinate Judge or District Judge in any original suit of value exceeding five thousand rupees or from a decree of a Divisional Court in any original suit; and
- (c) to the Divisional Court from a decree passed in an original suit by a Munsif, Subordinate Judge or District Judge and not hereinbefore provided for.

"40. (1) A further appeal shall lie to the Chief Court in any of the following cases from an appellate decree of a Divisional Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely:—

- (a) if the value of the suit is one thousand rupees or upwards, or the decree involves directly some claim to, or question respecting, property of like value;
- (b) in a land-suit if the Divisional Court consists of a single Judge and the decree varies or reverses, otherwise than as to costs, the decree of the Court below;
- (c) in a land-suit if, in a Divisional Court consisting of more than one Judge, the appeal is heard by two or more Judges and there is not a majority of those Judges concurring in the decree of the Divisional Court confirming, varying or reversing, otherwise than as to costs, the decision of the Court below;
- (d) if on the application of any party a Judge of the Divisional Court certifies that there is a question of law or custom involved, and that the case is, in his opinion, of sufficient importance to justify a further appeal:

Provided that—

- (i) an application under clause (d) of this sub-section shall not be received after the expiration of thirty days from the date on which the decree of the Divisional Court is passed, unless the applicant satisfies the Judge that he had sufficient cause for not presenting it within that period; and
 - (ii) a further appeal shall not lie in any small cause of value not amounting to one thousand rupees or upwards or in any unclassified suit of value not exceeding one hundred rupees.
- (2) When an application under clause (d) of sub-section (1) has been refused, an application for revision may, within thirty days from the date of the refusal, be presented to the Chief

Court, and if the Chief Court is of opinion that a question of law or custom or of general interest is involved, and that the case is of sufficient importance to justify a further appeal, the Chief Court may deal with the application for revision as if it were a further appeal.

"41. Subject to the provisions of the last foregoing section and of sections 595 and 622 of the Code of Civil Procedure, an appellate decree of a District Judge or Divisional Court shall be final. **XIV of 1882.**

"42. (1) The Local Government may confer Power to confer appellate jurisdiction on a Subordinate Judge the powers of a District Judge Subordinate Judge. for the purpose of hearing appeals from the Courts of Munsifs in any local area, and may withdraw those powers.

(2) A Subordinate Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

"43. (1) The period of limitation for an appeal under section 39 or section 40 and for an appeal from an order from which an appeal lies shall run from the date of the decree or order appealed against, and shall be as follows, that is to say:—

- (a) when the appeal lies to the District Judge—thirty days;
- (b) when the appeal lies to the Divisional Court—sixty days;
- (c) when the appeal lies to the Chief Court—ninety days.

(2) In computing these periods of thirty, sixty and ninety days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877: **XV of 1877.**

Provided that, in computing the period of ninety days for an appeal under clause (d) of section 40, sub-section (1), the time during which the application under that clause has been pending shall be excluded.

"44. For the purposes of section 617 of the Code of Civil Procedure, every appeal to a Divisional Court under this Chapter shall, except when the value of the suit is one thousand rupees or upwards, be deemed to be an appeal in which the decree is final. **XIV of 1882.**

6. The following sections shall be added to the Punjab Courts Act, 1884, namely:—

"75. (1) When the business pending before any Divisional Court consisting of one Judge, or before the Court of any District Judge, requires the aid of an Additional Judge for its speedy disposal, the Local Government may appoint to the Court an Additional Divisional Judge or an Additional District Judge, as the case may be.

"(2) An Additional Judge so appointed shall discharge any of the functions of a Divisional Judge or District Judge, as the case may be, which the Divisional Judge or District Judge may assign to him, and shall, as regards the discharge of those functions and subject to the provisions of the next following sub-section, be deemed, for the purposes of this Act, to be a Divisional Judge or District Judge.

"(3) Where an Additional Divisional Judge is appointed to a Divisional Court under sub-section (1), the Court shall not be deemed for the purposes of this Act to be a Divisional Court consisting of more than one Judge.

"76. Subject to the provisions of any enactment for the time being in force, the Chief Court may, of its own motion or on the application of a party, withdraw any proceeding which is pending in any Court subordinate to it and for the withdrawal of which provision is

not made in sections 25 and 647 of the Code of Civil Procedure or in section 526 of the Code of Criminal Procedure, 1882, and may either itself dispose of the proceeding or transfer it for disposal to any other subordinate Court."

7. (1) Section 8 of the Punjab Courts Act, XVIII of 1884, shall apply as amended by section 3 of this Act to proceedings pending at the commencement of this Act.

(2) Subject to the other provisions of this Act, appeals from decrees passed and not appealed from before the commencement of this Act shall lie and be disposed of as if the Punjab Courts Act, 1884, had on the third day of October, 1884, been passed as amended by this Act.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1888, and is hereby promulgated for general information:

ACT NO. XIV OF 1888.

An Act to make further provision for the Administration of the Estate of His late Majesty the King of Oudh.

WHEREAS Act XIX of 1887 (*an Act to provide for the Administration of the Estate of His late Majesty the King of Oudh*) enacts that the Governor General in Council shall have exclusive authority to act in the administration of the property of whatever nature left by His late Majesty the King of Oudh in regard to the settlement and satisfaction of claims against the estate of His late Majesty, and may make distribution of the remaining property or the proceeds thereof in such manner as he deems fit among the family and dependents of His late Majesty;

and whereas it is expedient to provide for the mode in which property may be transferred, and suits and other proceedings may be instituted, in the course of the administration of the estate of His late Majesty;

It is hereby enacted as follows:—

1. Subject to the control of the Governor General in Council, the person for the time being holding the office of Agent to the Governor General in Council for the Affairs of the late King of Oudh and for the Purposes of Act XIX of 1887 may—

Transfers of property by and to the Agent to the Governor General in Council, and institution of legal proceedings by him.

(a) in his own name and by his name of office dispose of any moveable or immoveable property of His late Majesty the King of Oudh in as full and effectual a manner as His Majesty could have disposed of it in his lifetime;

(b) by his name of office take a conveyance of any moveable or immoveable property in which His late Majesty had a beneficial interest; and

(c) by his name of office institute any suit or other proceeding in any Civil, Criminal or Revenue Court in connection with the possession of any moveable or immoveable property belonging to the estate of His late Majesty or the dispossession of any person of any such property, or the recovery of rents, debts or other moneys due to the estate, or otherwise in connection with the administration of the estate.

2. On the departure from British India, or the death, resignation or removal, of an Agent to the Governor General for the Affairs and Purposes aforesaid, the following consequences shall ensue, namely:—

(a) any moveable or immoveable property vested in him as such Agent shall become vested in his successor in office, and

(b) a suit or other proceeding instituted by his name of office may be continued by his successor in office in the same manner as if the departure or the death, resignation or removal had not occurred.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1888, and is hereby promulgated for general information:

ACT NO. XV OF 1888.

An Act to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States.

XX of 1886. WHEREAS it is expedient to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States in Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Shan States Act, 1888; and,

XX of 1886. (2) Notwithstanding anything in section 8, sub-section (2), of the Upper Burma Laws Act, 1886, it shall come into force throughout the Shan States on such day as the Local Government, by notification in the official Gazette, appoints in this behalf.

Definitions.

2. In this Act—

XX of 1886. (1) "Shan State" means a territory for the time being notified under sub-section (3) of section 8 of the Upper Burma Laws Act, 1886, as a Shan State for the purposes of that section and sections 6 and 7 of that Act: and

(2) "chief" includes a person temporarily administering such a State.

3. (1) Subject to the provisions of this Act and of any enactment

Administration of Shan States by their own chiefs and under their own laws. for the time being in force in a Shan State under section 8, sub-section (1),

XX of 1886. of the Upper Burma Laws Act, 1886, and to such conditions as may have been or may be prescribed by the Local Government, with the approval of the Governor General in Council, in any instrument recognizing a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognised by the Local Government as the chief of the State.

(2) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

Participation of the Government in the administration of Shan States. 4. (1) The Local Government may, by order,—

(a) appoint officers to undertake, or to take part in, the administration of civil and criminal justice and the collection of the revenue within a Shan State;

(b) with the previous sanction of the Governor General in Council, define the powers and regulate the procedure of officers so appointed and their deputies and subordinates and of the chief and his deputies and subordinates;

(c) with the previous sanction of the Governor General in Council, direct by what authority any jurisdiction, power or duty incident to the operation of any enactment for the time being in force in the State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, is to be exercised or performed; and

(d) modify the customary law of the State in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorises punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India.

(2) An order of the Local Government under sub-section (1) may have reference to any one Shan State or to any number of Shan States specified or referred to in the order.

5. In extending an enactment to a Shan State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, the Local Government, with the previous sanction of the Governor General in Council, may declare its extension to be subject to such restrictions and modifications as that Government thinks fit.

Modification of enactments in their application to the Shan States. XX of 1886.

S. HARVEY JAMES,
Secretary to the Government of India.

The following Report of the Select Committee on the Bill to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888:

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to supplement the provisions of the Upper Burma Laws

Letter from the Officiating Chief Secretary to the Chief Commissioner of Burma, No. 782-48G., dated the 27th September, 1888.

Telegram from the Chief Commissioner of Burma, No. 432, dated the 16th October, 1888.

Act, 1886, with respect to the Shan States was referred, have considered the Bill and the papers noted in the margin, and have the honour to submit this our Report.

2. We have provided for the whole of the Act to come into force on such day as the Local Government appoints.

3. We have defined the word "chief" to include the temporary administrator of a Shan State, and we have limited the occasions on which the Local Government is not to act without the previous sanction of the Governor General in Council.

4. We have also proposed to enable the Local Government, with such sanction, to define the powers of chiefs and their deputies and subordinates. A criminal charge against a soldier, for instance, could not be left to be tried by a Shan chief.

5. Cases may possibly arise in which it may be necessary for the Government to undertake temporarily the entire administration of a Shan State. We have provided for this contingency.

6. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>				<i>Date.</i>
Gazette of India	...	...	...	8th September, 1888.
Burma Gazette	...	...	...	29th September, 1888.

In the Vernacular.

<i>Province.</i>		<i>Language.</i>		<i>Date.</i>
Burma	...	Burmese	...	6th October, 1888.

7. The Bill has not, in our judgment, been so altered as to require re-publication, and we recommend that it be passed as amended by us.

ANDREW R. SCOBLE.

C. U. AITCHISON.

G. R. ELSMIE.

The 23rd October, 1888.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1888, and is hereby promulgated for general information:

ACT NO. XVI OF 1888.

An Act to repeal certain enactments relating to the purchase of regimental necessities from soldiers.

Whereas it is expedient to repeal the enactments specified in the schedule to this Act; It is hereby enacted as follows:—

Repeal.

1. The enactments specified in the schedule are hereby repealed.

SCHEDULE.

Number and year.	Subject or title.	Extent of repeal.
<i>Act of the Governor General in Council.</i>		
VII of 1867	Purchase of regimental necessities from soldiers.	So much as has not been repealed.
<i>Regulation of the Madras Code.</i>		
XIV of 1832	Purchase of regimental necessities from soldiers.	So much as has not been repealed.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1888, and is hereby promulgated for general information:

ACT NO. XVII OF 1888.

An Act to amend the Indian Marine Act, 1887.

WHEREAS it is expedient to amend the Indian XIV of 1887. Marine Act, 1887; It is hereby enacted as follows:—

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, XIV of 1887, Amendment of sec. the following shall be substituted, namely:—
tion 2, Act XIV of 1887.

"(2) The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression 'superior officer' in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force."

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 22, 1888.

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

PART IV.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 21st December 1888, and is hereby promulgated for general information:—

ACT NO. XVIII OF 1888.

An Act to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.

WHEREAS it is expedient that there should be a Financial Commissioner for Burma; It is hereby enacted as follows:—

1. (1) This Act shall extend to the whole of Burma (inclusive of Upper Burma), except the Shan States; and

(2) It shall come into force at once.

2. (1) There shall be a Financial Commissioner for Burma, and he shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(2) Any person appointed by the Local Government or by the Governor General in Council to the office of Financial Commissioner since the first day of April, 1888, shall be deemed to have been appointed under sub-section (1).

3. The Financial Commissioner shall be subject to the control of the Local Government and shall, subject to the provisions of this Act and of any other enactment for

the time being in force, discharge such functions as that Government may assign to him.

4. In any enactment for the time being in force in which the expression "Chief Revenue-authority" or "Chief Controlling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the commencement of this Act and to any conditions and restrictions which the Local Government, with the previous sanction of the Governor General in Council, may prescribe, be construed as referring to the Financial Commissioner.

5. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, delegate to the Financial Commissioner, subject to such conditions and restrictions, if any, as that Government, with such sanction as aforesaid, may prescribe, all or any of the functions assigned to that Government by any enactment for the time being in force.

6. All acts and proceedings done and taken after the first day of April, 1888, and before the commencement of this Act, by any person appointed by the Local Government or the Governor General in Council to the office of Financial Commissioner, or by any person acting under the authority of a person so appointed, shall be as valid and operative as they would have been if they had been done and taken in exercise of powers conferred by or conferable under this Act.

7. The enactments specified in the schedule shall be modified to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE.

ENACTMENTS MODIFIED.

Number and year.	Title.	Modifications.
I of 1879.	Indian Stamp Act, 1879.	In section 3, clause (7), insert the words "and Burma" after the word "Punjab".
III of 1879.	Destruction of Records Act, 1879.	In section 7 insert the words "and Burma" after the word "Punjab".
XXII of 1881.	Excise Act, 1881.	In section 3, clause (a), omit the words "British Burma", and for the words "in the territories administered by the Lieutenant-Governor of the Punjab" substitute the words "in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma": in section 10 omit the words "British Burma": and in all other sections in which those words occur, except section 1, substitute the word "Burma" for them.
XX of 1886.	Upper Burma Laws Act, 1886.	In the second schedule, first part, for "(ss. 2, 4 and 8)", against Act III of 1879, substitute "(ss. 2, 4, 5, 7 and 8)".

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 21st December, 1888, and is hereby promulgated for general information:—

ACT NO. XIX OF 1888.

An Act to amend the Burma Municipal Act, 1884.

WHEREAS it is expedient to amend the Burma Municipal Act, 1884; It is hereby enacted as follows:—

XVII of 1884. 1. In section 2 of the Burma Municipal Act, 1884, between the definition of "municipality" and the definition of "inhabitant" the following shall be inserted, namely:—

"'owner' includes the person who is receiving the rent of any building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant, but except in sections 74 and 75 does not include the Government:—"

Substitution of new sections for sections 58 and 59, Act XVII, 1884. 2. For sections 58 and 59 of the said Act the following shall be substituted, namely:—

"58. Every tax payable under section 41, clause (a), (b) or (c), or section 42, 43 or 44, in respect of any building or land, shall be payable jointly and severally by all persons who have been either owners or occupiers of the building or land at any time during the year of assessment, or, when the tax is payable by instalments, at any time during the period in respect of which the instalment is payable.

"59. (1) In the absence of any agreement to the contrary between an owner and an occupier of any building or land, any tax payable under section 41, clause (a), (b) or (c), which is paid by or recovered from the occupier, shall be recoverable by him from the owner, and any tax payable under section 42, 43 or 44, which is paid by or recovered from the owner, shall be recoverable by him from the occupier.

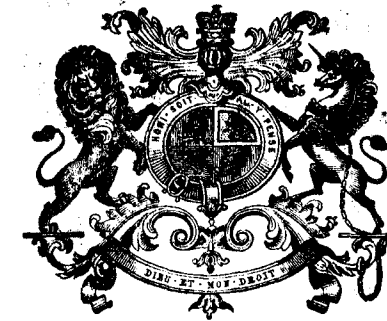
(2) A sum recoverable under sub-section (1) by an occupier from an owner may be deducted by the occupier from any rent due or afterwards accruing due from him to the owner."

3. Act XI of 1885 (*an Act to correct an error in the Burma Municipal Act, 1884*) is hereby repealed.

Repeal of Act XI of 1885. XVII of 1884.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 4, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th January, 1888, and was referred to a Select Committee on the 3rd February, 1888 :—

NO. 1 OF 1888.

A Bill to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum; It is hereby enacted as follows :—

I. To the second schedule to the Indian Tariff Act, 1882, the following shall be added, namely :—

No.	Names of Articles	Per	Tariff valuation.	Rate of Duty.
5	Petroleum, including also the liquids commonly known by the names of rock-oil, kerosene oil, Burma oil, kerosene, paraffine oil, mineral oil, petrolina, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance or from any products of petroleum	...	Ad valorem	5 per cent.

VIII of 1878. And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable; It is further enacted as follows:—

2. The rate of duty applicable to petroleum
Commencement of effect of the addition to the schedule. of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act shall be the rate of duty specified in the second schedule to the Indian
XI of 1882. Tariff Act, 1882, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to impose an *ad valorem* customs-duty of five per centum on petroleum, of which thirty-two millions of gallons, of the value of over one hundred and twenty-five lakhs of rupees, were imported into British India during the year 1886-87.

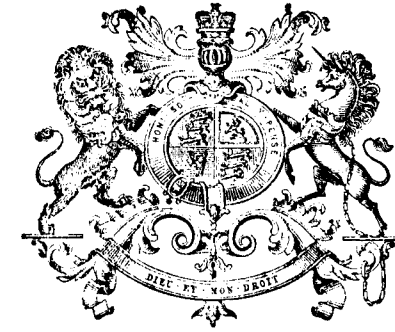
The 27th January, 1888.

J. WESTLAND.

S. HARVEY JAMES,
Secretary to the Government of India.

Memorandum from Home Department, No. 1707, dated 30th December, 1887, and
enclosures [Papers No. 22].
Office Memorandum from Home Department, No. 204, dated 30th January, 1888, and en-
closures [Papers No. 23].
Memorandum by J. T. Woodroffe, Esq., Barrister-at-law, Calcutta, dated 25th January,
1888 [Paper No. 24].

—We have provided that a fee for an inquiry and report under this section is



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 18, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to consolidate and amend the Law relating to the Protection of Inventions and Designs was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th February, 1888 :—

WE, the undersigned, Members of the Select Committee to which the Bill to consoli-

- date and am-
end the law
relating to the
Protection of
Inventions
and Designs
was referred,
have consider-
ed the Bill
and the pa-
pers noted in
the margin,
and have now
the honour to
submit this
our Report,
with the Bill
as amended
by us annex-
ed thereto.
2. Section 5.
—We have
added a clause
to the effect
that models
are only to be
called for in
exceptional
cases.
3. Section 6.
—We have
provided that
a fee for an
inquiry and
report under
this section is
- From Registrar, High Court, Calcutta, No. 277, dated 4th February, 1887 [Paper No. 1].
From H. H. Remfry, Esq., Solicitor, Calcutta, dated 10th March, 1887 [Paper No. 2].
From Secretary to Chief Commissioner, Coorg, No. 619—97, dated 8th April, 1887 [Paper No. 3].
Report of the Committee of Fellows of the Institute of Patent Agents [Paper No. 4].
From Secretary to Government, Punjab, No. 523, dated 16th May, 1887, and enclosures [Papers No. 5].
From Officiating Secretary for Berar to Resident, Hyderabad, No. 184 G., dated 13th May, 1887, and enclosures [Papers No. 6].
From Messrs. Thomson & Mylne, Beheea, dated 14th May, 1887, and enclosures [Papers No. 7].
From Officiating Chief Commissioner, Ajmere-Merwára, No. 575, dated 20th May, 1887 [Paper No. 8].
From Messrs. Cantwell & Co., Patent Agents, Calcutta, dated 3rd June, 1887 [Paper No. 9].
Office Memorandum by Home Department, No. 742, dated 8th June, 1887, and enclosures [Papers No. 10].
From Officiating Chief Commissioner, Ajmere-Merwára, No. 657, dated 10th June, 1887, and enclosure [Papers No. 11].
From Chief Secretary to Government, Madras, No. 1140, dated 1st June, 1887, and enclosures [Papers No. 12].
From Secretary to Government, North-Western Provinces and Oudh, No. 596—III-993, dated 10th June, 1887, and enclosures [Papers No. 13].
From Secretary to Chief Commissioner, Assam, No. 1128, dated 18th June, 1887, and enclosures [Papers No. 14].
From Secretary to Chief Commissioner, Burma, No. 673—7 L., dated 25th June, 1887, and enclosure [Papers No. 15].
From Secretary to Government, Bengal, No. 28 T.—G., dated 30th June, 1887, and enclosures [Papers No. 16].
From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3280—165, dated 2nd July, 1887 [Paper No. 17].
Office Memorandum by Home Department, No. 989, dated 5th August, 1887, and enclosures [Papers No. 18].
From Acting Chief Secretary to Government, Bombay, No. 2510, dated 25th August, 1887, and enclosures [Papers No. 19].
From Messrs. DePenning & DePenning, Calcutta, dated 5th December, 1887 [Paper No. 20].
Office Memorandum from Revenue and Agricultural Department, to Home Department, No. 662—48.5 A., dated 18th August, 1887, and enclosures [Papers No. 21].
Office Memorandum from Home Department, No. 1707, dated 30th December, 1887, and enclosures [Papers No. 22].
Office Memorandum from Home Department, No. 204, dated 30th January, 1888, and enclosures [Papers No. 23].
Memorandum by J. T. Woodroffe, Esq., Barrister-at-law, Calcutta, dated 25th January, 1888 [Paper No. 24].

not to be paid by an applicant unless the inquiry and report are made by a person who is not in the service of the Government. In proposing this provision we have been guided by the opinions expressed in the papers which we have considered, and, in particular, by the Resolution of the Government of India in the Home Department, No. 10—1101, dated the 21st July, 1875.

4. *Section 9.*—In re-drafting this section respecting the form and contents of specifications we have had regard to the Rules of Practice in the United States Patent Office as revised last year.

5. *Section 11.*—We have required copies of specifications to be sent to the Chief Commissioner of Burma as well as to the Governments of Madras and Bombay.

6. *Section 15.*—We have expressly provided that the High Court may, if it sees fit, invite objections to the extension of an exclusive privilege.

7. *Section 20.*—We have provided that when an inventor has, in any country other than British India or the United Kingdom, acquired an exclusive privilege in respect of an invention, he must, if he desires to acquire such a privilege in British India, apply for leave to file a specification of the invention within one year from the date of his having acquired the exclusive privilege in the other country.

8. *Section 28.*—We have also provided that, if an exclusive privilege acquired in respect of an invention in British India has been acquired in any other country and is revoked or expires as regards that country, it is to cease as regards British India also.

9. *Section 38.*—We have proposed to extend the period within which, in case of fraud on an actual inventor, a suit may be instituted by him for the assertion of his title to an exclusive privilege in respect of his invention, and to require the Court in assessing damages in such a suit to have regard to the degree of diligence which the inventor has exerted in the prosecution of his claim.

10. *Section 44.*—This section follows section 36 of 46 & 47 Vic., cap. 57, and provides for the assignment of an exclusive privilege for any particular place.

11. *Sections 45 and 47.*—We have here amplified the provisions of the Bill respecting the performance of acts by agents.

12. *Sections 51 and 61 and Fifth Schedule.*—We have added to the Schedules a form of an application for an order for the registration of a design, and have provided for copies of drawings, photographs or tracings of designs being sent for record to Madras, Bombay and Rangoon.

13. *Second and Third Schedules.*—We have proposed to vary the form, though not the substance, of these Schedules.

14. *Fourth Schedule.*—We have proposed that an exclusive privilege be enjoyed on a payment of Rs. 40 for the first four years, of Rs. 50 annually for the next five years, and of Rs. 100 annually for every subsequent year of the continuance of the privilege.

15. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	Date.
Gazette of India	8th, 15th and 22nd January, 1887.
Fort Saint George Gazette	25th January, 1887.
Bombay Government Gazette	13th January, 1887.
Calcutta Gazette	12th January, 1887.
North-Western Provinces and Oudh Government Gazette	15th January, 1887.
Punjab Government Gazette	20th January, 1887.
Central Provinces Gazette	15th January, 1887.
Burma Gazette	29th January, 1887.
Assam Gazette	29th January, 1887.
Coorg District Gazette	1st February, 1887.

In the Vernaculars.

Province.	Language.	Date.
Bombay	Maráthi	2nd June, 1887.
	Gujaráthi	2nd June, 1887.
	Kanarese	2nd June, 1887.
Bengal	Bengali	26th April, 1887.
	Hindi	14th June, 1887.
North-Western Provinces and Oudh	Urdu	30th July, 1887.
Assam	Bengali	14th May, 1887.

16. We do not consider that the Bill has been so amended as to require re-publication, and we recommend that it be passed as amended by us.

ANDREW R. SCOBLE.
C. U. AITCHISON.
C. A. ELLIOTT.
PEÁRI MOHAN MUKERJI.
ROBERT STEEL.

The 17th February, 1888.

No. II.

THE INVENTIONS AND DESIGNS BILL, 1887.

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2. Repeal.
3. Division of Act into Parts.

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6. Order to file specification.
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THE FIFTH SCHEDULE.—APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

THE SIXTH SCHEDULE.—FEES (*Designs*).

*The Inventions and Designs Bill.**(Part I.—Inventions.—Section 1-5.)***No. II.**

A Bill to Consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

1. (1) This Act may be called the Inventions and Designs Act, 1888.

Title, extent and commencement. (2) It shall extend to the whole of British India; and

(3) It shall come into force on the first day of July, 1888.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows:—

PART I.—INVENTIONS.**PART II.—DESIGNS.****PART I.****INVENTIONS.**

4. In this Part, unless there is something repugnant in the subject or context,—

(1) "invention" includes an improvement:

(2) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor:

(3) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not:

(4) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to

continue or may be extended, or for any shorter term:

(5) "inventor", "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be:

(6) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(7) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance:

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary, assistant-secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorised by general or special order of the Governor General in Council to discharge any of those functions:

(9) "District Court" has the meaning assigned to that expression by the Code of Civil XIV of 1884. Procedure: and

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 6-9.)*

require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

6. (1) Upon an application under the last Order to file specification foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such enquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely:—

(a) the time for making a payment shall not in any case be enlarged for more than three months; and

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

9. (1) A specification filed under this Part must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must, by explicit language distinguish between what is old and what is claimed to be new.

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 10-15)*

(7) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma, and the others, if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

(2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 16-21.)*

by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

17. (1) Subject to any conditions imposed under the last foregoing section—

(a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mis-application or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum point-

ing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person shall not be entitled to an exclusive privilege under this Part—

(a) if the invention is of no utility, or
(b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or

(c) if the applicant is not the inventor thereof, or

(d) if the original or any amended specification does not fulfil the requirements of this Part, or

(e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or

(f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

*The Inventions and Designs Bill.**(Part I.—Inventions.—Sections 22-29.)*

specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence:

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within

the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(2) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a

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wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be:

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or
- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive pri-

vilage in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

33. (1) Any person authorised by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there

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is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency: or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient; and thereupon the applicant shall, within

a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor

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and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

39. A Court making a decree in a suit under section 29 or section 28, or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

40. In the following cases, namely—

(a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired;

(b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased;

(c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege;

(d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section;

(e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38;

(f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

43. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

(a) the exclusive privilege is not being worked in British India, or

(b) the reasonable requirements of the public with respect to the invention cannot be supplied, or

(c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

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44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorised by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.

DESIGNS.

50. In this Part, unless there is something repugnant in the subject or context,—

(1) "design" means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself:

(2) "copyright" means the exclusive right to apply a design to an article:

(3) the author of any new and original design shall be considered the "proprietor" thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the "proprietor", and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the "proprietor" of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise: and

(4) "Secretary", "District Court" and "High Court" have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

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(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an

entry thereof to be made in the register of designs.

58. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

61. The provisions of the following portions of Part I, namely:—

(a) section 11, with respect to copies of specifications,

(b) section 14, with respect to the register of inventions and the matters entered therein, and

(c) section 47, with respect to the performance by an agent of any act required or authorised by that Part to be done by a principal,

shall, so far as they can be made applicable, apply, respectively, to—

(a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,

(b) the register of designs and the matters entered and documents referred to therein, and

(c) the performance by an agent of any act required or authorised by this Part to be done by a principal.

*The Inventions and Designs Bill.**(Part II.—Designs.—Sections 62-63. The First Schedule.—Enactments repealed.**The Second Schedule.—Application where Patent has not been obtained.**The Third Schedule.—Application where Patent has been obtained.)*

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

63. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883	Protection of Inventions Act, 1883.	The whole.
I of 1879	Indian Stamp Act, 1879.	Article 48, Schedule I.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of *(here insert name, occupation and address)* for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for *(state the title of the invention)*; he is the inventor thereof *(or, as the case may be, the executor, administrator or assign of the inventor)*; and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention *(here describe it and the particular novelty whereof it consists)*.

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of *(here insert name, occupation and address)* for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant *(or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign)* has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for *(state the title of the invention)*.

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorised to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention *(here describe it and the particular novelty whereof it consists)*.

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

*(Signature and verification.)**The Inventions and Designs Bill.**(The Fourth Schedule.—Fees (Inventions). The Fifth Schedule.—Application for Order for Registration of Design).*

THE FOURTH SCHEDULE.

FEES (Inventions).

(See sections 8, 15 and 48.)

	Rs. a. p.
(1) in respect of an application for leave to file a specification (section 5)	10 0 0
(2) in respect of the filing of a specification (section 8)	30 0 0
(3) in respect of an extension of the time for filing a specification (section 8)	20 0 0
(4) in respect of the continuance of an exclusive privilege (section 8)—	
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof	50 0 0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date	50 0 0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date	50 0 0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date	50 0 0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date	50 0 0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date	100 0 0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date	100 0 0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date	100 0 0
(i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date	100 0 0
(j) after the expiration of the twelfth year and before the expiration of the thirteenth year from that date	100 0 0
Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.	
(5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—	
(i) if the enlargement does not exceed one month	10 0 0
(ii) if the enlargement exceeds one month, but does not exceed two months	25 0 0
(iii) if the enlargement exceeds two months	50 0 0
(6) in respect of an application for an extension of an exclusive privilege for a further term (section 15)	50 0 0
(7) in respect of an order extending the term of an exclusive privilege (section 15)	100 0 0

THE FOURTH SCHEDULE—continued.

Rs. a. p.

(8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15) 100 0 0 to be paid before the expiration of each year of the extended term:

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

(9) in respect of an application for leave to file a memorandum or amended specification (section 18) 20 0 0

(10) in respect of a petition to the Governor General in Council for a compulsory license (section 43) 50 0 0

(11) for the inspection of any book or other document which is open to inspection under Part I 1 0 0

(12) for copies—

 (a) when the number of words copied does not exceed four hundred 1 0 0

 (b) for every hundred words in excess of four hundred 0 4 0

 (c) of drawings or photographs cost according to agreement.

(13) for certifying copies— for every hundred words 0 2 0

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

The application of *(here insert name, occupation and address)* for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief, that design is within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

3. copies of *(drawings), (photographs), (tracings)* of the design accompany this application.

4. The following is a statement of the nature of the design *(here describe its nature)*.

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.

(Signature.)

*The Inventions and Designs Bill.**(The Sixth Schedule.—Fees (Designs).)*

THE SIXTH SCHEDULE.

FEES (Designs).

(See section 62.)

	Rs. a. p.
(1) in respect of an application for an order for the registration of a design (section 51)	10 0 0
(2) in respect of a mutation of names in the register of designs (section 56)	5 0 0
(3) for the inspection of any book or other document which is open to inspection under Part II	1 0 0

(4) for copies—	Rs. a. p.
(a) when the number of words copied does not exceed four hundred	1 0 0
(b) for every hundred words in excess of four hundred	0 4 0
(c) of drawings, photographs or tracings	cost according to agreement.
(5) for certifying copies—	
for every hundred words	0 2 0

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February, 1888:—

NO. 2 OF 1888.

A Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States.

WHEREAS it is expedient to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of foreign States; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Metal Tokens Act, 1888.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. In this Act "issue" means to initiate the circulation, for use as money, of any piece of metal manufactured in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878.

VIII of 1878.

[33 Vic., c. 10, s. 5.]

3. (1) No piece of copper or bronze, or of any other metal or mixed metal, which, whether stamped or unstamped, is intended or likely to be used as money, shall be made or issued except by the authority of the Governor General in Council.

(2) Any person who in contravention of sub-section (1) makes any such piece as is mentioned in that sub-section shall be punished,—

(a) if a previous conviction under this section is not proved against him, with imprisonment which may extend to three years, or with fine, or with both; or,

(b) if a previous conviction under this section is proved against him, with im-

[Cl. 24 & 25 Vic., c. 99, s. 12.]

prisonment which may extend to seven years, or with fine, or with both.

(3) Any person who in contravention of sub-section (1) issues any such piece as is mentioned in that sub-section shall be punished,—

(a) if a previous conviction under this section is not proved against him, with imprisonment which may extend to one year, or with fine, or with both; or,

(b) if a previous conviction under this section is proved against him, with imprisonment which may extend to seven years, or with fine, or with both. [Cl. 24 & 25 Vic., c. 99, s. 12.]

(4) Any person convicted of an offence under sub-section (2) or sub-section (3) shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid which may have been found in his possession or under his control and all materials and implements so found which are capable of being used for the making of such pieces.

(5) Any officer in charge of a police-station who has reason to believe that any place within the limits of his station is being used for the making of such pieces may enter and search the place and seize and carry away any such pieces, and any materials and implements capable of being used for the making thereof, which he may find there.

(6) Where the offence of issuing such pieces in contravention of sub-section (1) is not a cognizable offence within the meaning of that expression as defined in the Code of Criminal Procedure, 1882, it shall not be taken cognizance of by any Presidency Magistrate without the previous sanction of a Commissioner of Police, or by any other Magistrate, except a District Magistrate, without the previous sanction of the District Magistrate.

(7) If in the trial of any offence under sub-section (2) or sub-section (3) the question arises whether any piece of metal or mixed metal was intended or likely to be used as money, the burden of proving that the piece was not intended or likely to be so used shall lie on the accused person.

4. If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land

Application of provisions of the last foregoing section to importation of pieces of metal for use as money.

into British India of any such pieces of metal as are mentioned in the last foregoing section, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that any of the provisions of the last foregoing section of this Act with respect to the offence of making such pieces or to the trial of such an offence shall apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of the Sea Customs Act, 1878, or to the trial of any such offence.

5. No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any local authority or railway-administration. Prohibition of receipt by local authorities and railways as money of metal which is not coin. XLV of 1860.

6. If any person without lawful authority in this behalf makes any kind of coin resembling or apparently intended to resemble or pass for any coin, as defined in the Indian Penal Code, which is a legal tender, or is in actual use and circulation as money, in the territories of any foreign Prince or State, [24 & 25 Vic., c. 99, s. 18.] XLV of 1860. he shall be punished with imprisonment which may extend to seven years, or with fine, or with both. Prohibition of making pieces of metal in resemblance or similitude of foreign coin.

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill is to prohibit the manufacture and issue, and restrict the circulation, of stamped or unstamped pieces of copper such as, during the recent depression in the value of that metal, private traders at Jugadri, Gaya, Ludhiana, Beawar and other places have been making and issuing in large quantities for use as money. The pieces circulate at much above their intrinsic value, and their circulation both deprives the taxpayers of this country of that profit on coinage of copper which belongs to every Government, and perpetuates the currency of an inconvenient form of coin.

The other object of the Bill is to suppress the manufacture in British India of coins resembling or apparently intended to resemble or pass for coins which are legal tender or in actual use and circulation in any foreign country.

The 17th February, 1888.

J. WESTLAND.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th February, 1888:—

NO. 3 OF 1888.

A Bill to Regulate Her Majesty's Indian Reserve Forces.

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Reserve Forces Act, 1888; and

(2) It shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.

4. The Governor General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier as the case may be, be subject to military law in the same manner

and to the same extent as a person belonging to Her Majesty's Indian Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

(a) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or

(b) fails without reasonable excuse to comply with any such rule or order, or

(c) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make any person already in the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS.

THE Governor General in Council having, with the sanction of the Secretary of State for India, decided on the formation of a Reserve Force for the Indian Army, the present Bill has been prepared to enable provision to be made for the government, discipline and regulation of that Force.

The Force is to consist of an Active Reserve and a Garrison Reserve, members of the former Reserve being liable to serve anywhere and of the latter in British India only. The Governor General in Council is to make rules and orders for all matters relating to the Force, and, subject to these rules and orders and, in the case of the Garrison Reserve, to the liability of the members thereof to serve in British India only, all persons belonging to the Force are to be liable to military law as if they were persons belonging to Her Majesty's Indian Forces. Provision is also made for the punishment, by Court-martial or by a Magistrate, of reservists who fail, without reasonable excuse, to attend at any place at which they may be ordered to attend, or who fail to comply with any rule or order under the Act, or who fraudulently obtain any pay or other sum contrary to any such rule or order.

The 17th February, 1888.

G. CHESNEY.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 25, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law relating to Imprisonment for debt was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th February, 1888:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend

From Mr. P. R. Desai, Pleader, District Court, Satara, dated 15th July, 1886 [Paper No. 1].

From Secretary to Chief Commissioner, Coorg, No. 1496—273, dated 16th August, 1886 [Paper No. 2].

From Secretary for Berar to Resident, Hyderabad, No. 331G., dated 15th September, 1886, and enclosures [Papers No. 3].

From Chief Secretary to Government, Madras, No. 2405, dated 4th September, 1886, and enclosures [Papers No. 4].

From Chief Commissioner, Ajmere-Merwara, No. 1104—690-II, dated 22nd September, 1886, and enclosures [Papers No. 5].

Endorsement by Chief Secretary to Government, Madras, No. 2528, dated 22nd September, 1886, and enclosures [Papers No. 6].

From Secretary to Chief Commissioner, Assam, No. 1727, dated 21st August, 1886, and enclosures [Paper No. 7].

From Acting Under Secretary to Government, Bombay, No. 5776, dated 8th October, 1886, and enclosures [Papers No. 8].

From Secretary to Chief Commissioner, Burma, No. 377—20L., dated 15th October, 1886, and enclosures [Papers No. 9].

From Under Secretary to Chief Commissioner, Central Provinces, No. 4991—296, dated 2nd November, 1886, and enclosures [Papers No. 10].

From Secretary to Chief Commissioner, Coorg, No. 1970—2736, dated 2nd November, 1886, and enclosures [Paper No. 11].

From Under Secretary to Government, Bombay, No. 8064, dated 16th November, 1886 [Paper No. 12].

From Chief Secretary to Government, Madras, No. 3008, dated 11th November, 1886, and enclosures [Papers No. 13].

From Officiating Junior Secretary to Chief Commissioner, Central Provinces, No. 982S., dated 23rd November, 1886, and enclosures [Papers No. 14].

From Chief Secretary to Government, Bengal, No. 3321J., dated 19th November, 1886, and enclosures [Papers No. 15].

From Officiating Chief Secretary to Government, Bengal, No. 3753J., dated 13th December, 1886, and enclosures [Papers No. 16].

From Officiating Chief Secretary to Government, Bengal, No. 3857J., dated 17th December, 1886, and enclosure [Papers No. 17].

From Secretary, Mymensingh Landholders Association [Paper No. 18].

Translation of Memorial from Jawla Pershad, Moneylender and Zamindar and Inhabitant of Bandki and Hazratpur, Pargana Bandki, Zila Fatehpur, dated 25th October, 1886 [Paper No. 19].

From Secretary to Government, Punjab, No. 42, dated 13th January, 1887, and enclosures [Papers No. 20].

From Secretary, Bengal Chamber of Commerce, No. 91, dated the 31st January, 1888 [Paper No. 21].

at the pleasure of a decreeholder, and that the law with respect to the arrest and imprisonment of women in execution of decrees should be what in section 8 of the Married Women's Property Act, 1874, it is assumed to be.

the law relating to Imprisonment for Debt was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with copy of the Bill as amended by us annexed thereto.

2. Section 2 of the revised Bill, on which sections 3, 5, 6 and 9 wholly and sections 4 and 7 partly depend, would give effect to the very general opinion that it should be in the discretion of a Court executing a decree to refuse to issue a warrant of arrest

3. Section 4 would give effect to the suggestion that, when a judgment-debtor who has been arrested is brought before the Court before being committed to prison, the Court should have the power to order his release if he is unable to pay the amount of the decree and the Court sees no reason to suppose that he has obstructed or will obstruct the decreeholder in the execution of the decree. The section is based on section 30 of the Presidency Small Cause Courts Act, 1882, and section 4 of the Debtors Bill, 1886.

4. Section 8 is an amplification of section 15 of the Civil Procedure Code Amendment Bill, 1886. It has been urged that, where a person in ill-health has been arrested, it should be in the discretion of the Court to refuse to commit him to prison, and that there should be no room for doubt that, where a person has been released from arrest or imprisonment on the ground of illness, he is liable to be re-arrested.

5. It is proposed to leave untouched the law respecting arrest before judgment. The use of that process is discretionary with the Courts, which can only use it where they are satisfied that there is an intention on the part of a defendant to evade their jurisdiction.

6. In two local Rent Acts reproducing the provisions of section 278 of the Code of 1859 with respect to the period of imprisonment in execution of decrees, section 10 of the revised Bill substitutes for those provisions the provisions of section 342 of the Code of 1882.

7. The publication ordered by the Council has been made as follows:—

In English.		Date.
Gazette of India		12th, 19th and 26th June, 1886.
Fort Saint George Gazette		16th July, 1886.
Bombay Government Gazette		17th and 24th June, and 1st July, 1886.
Calcutta Gazette		23rd and 30th June, and 7th July, 1886.
North-Western Provinces and Oudh Government Gazette		16th and 23rd June, 1886.
Punjab Government Gazette		17th and 24th June, and 1st July, 1886.
Central Provinces Gazette		26th June, and 3rd and 10th July, 1886.
Burma Gazette		3rd, 10th and 17th July, 1886.
Coorg District Gazette		1st August, 1886.

In the Vernaculars.		Date.
Madras	Tamil	17th September, 1886.
	Telugu	1st October, 1886.
	Hindustani	2nd November, 1886.
	Kanarese	15th October, 1886.
	Malayalam	8th October, 1886.
Bombay	Marathi	9th September, 1886.
	Gujarathi	9th September, 1886.
	Kanarese	16th September, 1886.
Bengal	Bengali	31st August, and 7th September, 1886.
	Hindi	31st August, and 7th and 14th September, 1886.
North-Western Provinces and Oudh	Uriya	9th September, 1886.
	Urdu	6th, 13th and 20th November, 1886.
Punjab	Urdu	11th, 18th and 25th November, 1886.
Central Provinces	Marathi	29th September, and 5th and 12th October, 1886.

8. We consider that the Bill as amended by us should be re-published before it is further considered in Council.

ANDREW R. SCOBLE.
C. U. AITCHISON.
RANA SHANKAR BAKSH SINGH.
SYUD AMEER HOSSEIN.
PEARI MOHAN MUKERJI.*
J. W. QUINTON.
ROBERT STEEL.
DINSHAW MANOCKJEE PETIT.
F. M. HALLIDAY.

The 24th February, 1888.

* I think the Bill is one-sided in one particular. It leaves untouched the procedure for the recovery of revenue and rent in certain provinces and administrations but materially modifies it in others.

PEARI MOHAN MUKERJI.

No. II.

A Bill to amend the law relating to Imprisonment for Debt.

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

Title, commencement and extent. 1. (1) This Act may be called the Debtors Act, 1888; and

(2) It shall come into force at once.

(3) The several portions thereof have the same local extent as the enactments to which they respectively relate.

XIV of 1882. 2. After section 245 of the Code of Civil Procedure the following sections shall be inserted, namely:—

"245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

"245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

"(2) If appearance is not made in obedience to the notice, the Court shall, if the decreeholder so requires, issue a warrant for the arrest of the judgment-debtor."

3. In section 250 of the said Code, between the word "shall" and the word "issue", the following shall be inserted, namely:—

"subject to the provisions of sections 245A and 245B."

Addition of new section after section 337 of the Code. 4. After section 337 of the said Code the following shall be inserted, namely:—

"337A. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such

terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

"(2) Before making an order under sub-section (1), the Court may take into consideration [Debtors Bill, 1886, s. 4.] any allegation of the decreeholder touching any of the following matters, namely:—

(a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;

(b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decreeholder in the execution of the decree;

(c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;

(d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it;

(e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

"(3) While any of the matters mentioned in [Act XIV, 1882, s. 349.] sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

"(4) A judgment-debtor released under this [Cf. Act XIV, 1882, s. 341.] section may be re-arrested.

"(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail."

5. To section 380 of the said Code the following shall be added, namely:—

"On the application of any defendant in a suit for money in which the plaintiff is a woman the Court may at any stage of the suit make a like order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit."

6. In section 640 of the said Code, after the words "from arrest in execution of civil process" the words "in any case in which the arrest of women is not prohibited by this Code" shall be added.

7. In section 642 of the said Code, for the words and figures "except as provided in sections 256 and 643" the following shall be substituted, namely:—

"except as provided in section 337A, sub-section (5), and sections 256 and 643."

Addition of new section after section 652 of the Code.

8. After section 652 of the said Code the following shall be added, namely:—

"653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

"(2) When a judgment-debtor has been arrested under this Code the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

[Civil Procedure Code Amendment Bill, 1886, s. 15.]

"(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

(a) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or

(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

[Cf. Act XIV, 1882, s. 341.]

"(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be."

9. The last sixteen words of section 8 of the Married Women's Property Act, 1874, and the whole of section 31 of the Ajmere Courts Regulation, 1877, are hereby repealed. III of 1874. I of 1877.

10. (1) For the first fifty-five words of section 48 of the Act of the Governor or of Fort St. George in Council, No. VIII of 1865, the following shall be substituted, namely:—

"No person shall be imprisoned as a defaulter for a longer period than six months whatever the amount of the arrears may be, nor for a longer period than six weeks if the arrears do not exceed fifty rupees."

(2) For the proviso to section 163 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:— XII of 1881.

"Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed six weeks when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months in any other case."

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 17, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 10th March, 1888:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report with copy of the Bill as amended by us annexed thereto.

2. We have omitted most of the sections of the Bill as introduced which had reference to insolvency, representation of minors and imprisonment for debt. The first and second of those matters will be more conveniently considered by the Select Committees on the Bankruptcy and Guardians and Wards Bills re-

From Mr. P. R. Desai, Pleader, District Court, Satara, dated 10th September, 1886 [Paper No. 1].

From Mr. Nanabhai Chhajibhai, Pleader, Karachi, dated 20th September, 1886 [Paper No. 2].

From Secretary to Chief Commissioner, Coorg, No. 1943—3976, dated 29th October, 1886, and enclosures [Papers No. 3].

From Honorary Secretary, British Indian Association, No. 1035, dated 15th November, 1886 [Paper No. 4].

From Superintendent, Kapurthala State, No. 527, dated 19th November, 1886, and enclosures [Papers No. 5].

From Acting Chief Secretary to Government, Madras, No. 2990, dated 6th November, 1886, and enclosures [Papers No. 6].

From Chief Commissioner, Ajmere-Merwara, No. 1305—690-II, dated 19th November, 1886, and enclosure [Papers No. 7].

From Secretary for Berar to Resident, Hyderabad, No. 438G., dated 24th November, 1886, and enclosures [Papers No. 8].

From Acting Chief Secretary to Government, Madras, No. 3138, dated 24th November, 1886, and enclosures [Papers No. 9].

From Babu Haridas Ghosh, Pleader, Hoshungabad, dated 10th December, 1886 [Paper No. 10].

Memorial of certain Cloth Merchants of Allahabad, dated 14th December, 1886 [Paper No. 11].

From Secretary to Chief Commissioner, Burma, No. 706—27L., dated 24th December, 1886, and enclosures [Papers No. 12].

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 32—355, dated 4th January, 1887, and enclosures [Papers No. 13].

From Acting Under Secretary to Government, Bombay, No. 7627, dated 31st December, 1886, and enclosures [Papers No. 14].

From Secretary to Government, Punjab, No. 21, dated 10th January, 1887, and enclosures [Papers No. 15].

From Secretary to Chief Commissioner, Assam, No. 84, dated 18th January, 1887 [Paper No. 16].

From Officiating Chief Secretary to Government, Bengal, No. 408, dated 24th January, 1887, and enclosures [Papers No. 17].

Memorandum by the Hon'ble Rana Sir Shankar Baksh Singh, Bahadur [Paper No. 18].

From Secretary to Government, Punjab, No. 252, dated 11th March, 1887, and enclosures [Papers No. 19].

From Secretary to Government, North-Western Provinces and Oudh, No. 265—VII, dated 31st March, 1887, and enclosures [Papers No. 20].

From Chief Secretary to Government, Bengal, No. 1488, dated 28th March, 1887, and enclosures [Papers No. 21].

Memorandum by Mr. P. R. Desai, Pleader, District Court, Tanna, dated 17th May, 1887 [Paper No. 22].

Circular to all Local Governments and Administrations, No. 1585—96, dated 16th September, 1887.

From Secretary for Berar to Resident, Hyderabad, No. 488G., dated 29th November, 1887, and enclosures.

From Chief Secretary to Government, Madras, No. 2695, dated 25th November, 1887, and enclosures.

From Officiating Chief Secretary to Chief Commissioner, Burma, No. 267, dated 9th December, 1887, and enclosures.

From Chief Commissioner, Ajmere-Merwara, No. 1456, dated 7th December, 1887, and enclosure.

From Secretary to Chief Commissioner, Assam, No. 2970, dated 19th December, 1887, and enclosures.

From Acting Under Secretary to Government, Bombay, No. 7417, dated 24th December, 1887, and enclosures.

From Secretary for Berar to Resident, Hyderabad, No. 525G., dated 27th December, 1887.

From Officiating Secretary to Government, Punjab, No. 24, dated 10th January, 1888, and enclosures.

From Registrar, High Court, Calcutta, No. 305, dated 8th February, 1888.

From Chief Secretary to Government, Bengal, No. 459J., dated 7th February, 1888, and enclosures.

From Registrar, High Court, Calcutta, No. 352, dated 13th February, 1888, and enclosure.

Notes by Judicial Commissioner, Oudh, dated 11th February, 1888 [Paper No. 23].

From J. Deas, Esq., District Judge, Jaunpur, No. 6, dated 6th January, 1888.

From Chief Commissioner, Central Provinces, No. 891—31, dated 15th February, 1888, and enclosures.

Notes by P. V. Krishnaswami Aiyar, First Grade Pleader, Madura.

Notes by Yellepedy Janaki Ramayya, District Judge, Coconada.

(1) *Section 3.*—The object of the section which it is proposed to insert after section 4 of the Code is to preserve the summary character of rent-litigation which, as the Government of the North-Western Provinces and Oudh has pointed out, the rulings cited in the margin of the proposed section may otherwise have the effect of destroying.

(2) *Section 5.*—The proposed addition to section 14 has reference to the conflicting rulings of the High Courts with respect to suits in British India on judgments of Foreign Courts, and is designed to remove one of the objections to such suits being maintainable.

(3) *Section 6.*—The need of such a section as it is proposed to insert after section 16 of the Code is said to be much felt where large areas are subject to fluvial action. The section was originally inserted in the Punjab Land-revenue Bill of 1886, but the Select Committee on that Bill was of opinion that the section is one which should be of general rather than local operation.

(4) *Section 9.*—The section which it is proposed to substitute for section 53 is, with slight modification, in a form which has been suggested by the Hon'ble Mr. Justice Straight.

(5) *Sections 10, 11, 15 and 16.*—These sections are added to the Bill for the purpose of accommodating the language of the Code more closely to the system of process-serving obtaining in some parts of British India.

(6) *Section 12.*—This section will admit of summonses being sent for service to Superintendents of foreign States, and to Courts established or continued by the authority of the Governor General in Council in foreign territory, as well as to British Residents and Agents.

(7) *Section 13.*—The criticisms on the form and substance of sections 141 and 142 of the Code are so numerous and appear to us to be so well founded that we have deemed it necessary to re-draft those sections instead of only amending the former of them.

(8) *Section 17.*—The enactment of this section is advocated by high authority in Bengal and other parts of India. The section follows sections 357 *et seqq.* of the Code of Criminal Procedure, 1882, section 20 of the Burma Courts Act, 1875, sections 11 and 12 of the Central Provinces Laws Act, 1875, and section 19 of the Oudh Laws Act, 1876.

(9) *Sections 18 and 19.*—The amendment of section 191 in such a manner as to make it clear that the section does not require the re-hearing of a suit by a successor of a Judge who, having part heard the suit, has been prevented by death, transfer or other cause from concluding the trial thereof is considered by the Government of the North-Western Provinces and Oudh to be necessary in view of the administrative inconvenience, and the trouble and expense to suitors, which must result from the cases reported at I. L. R. 7 All. 857 and 8 All. 35. It is proposed also to apply the principle of section 191 of the Code to suits transferred from one Court to another, and to supplement the section by an addition to section 193.

(10) *Section 20.*—Such an amendment of section 209 as is here proposed has the support of Sir Meredyth Plowden and other Judges of the Chief Court of the Punjab.

(11) *Section 21.*—We have so amended section 216 of the Code as to make it applicable not only to such equitable cases of set-off as form the subject of the report at I. L. R. 7 All. 284 and the reports there cited, but also to any equitable right to set off a sum which is not a debt.

(12) *Section 22.*—As section 223 is now drawn, it is open to doubt in what cases decrees may be sent for execution to the Courts of Small Causes at Calcutta, Madras, Bombay and Rangoon. The ordinary jurisdiction of a Provincial Court of Small Causes extends under sub-section (2) of section 15 of Act IX of 1887 to suits of value not exceeding five hundred rupees, and its extraordinary jurisdiction under sub-section (3) of the same section to suits of value not exceeding one thousand rupees. The jurisdiction of a Presidency Court of Small Causes extends to suits of value not exceeding two thousand rupees; and it is proposed by section 47 of the Lower Burma Courts Bill, now pending before the Council of the Governor General, to take power to extend the whole or any part of the Presidency Small Cause Courts Act to the Court of Small Causes at Rangoon.

(13) *Section 23.*—The words "or continued" have been inserted in section 229 and other sections after the word "established" because there are Courts in Kattiawar which were established by the Governor of Bombay in Council.

spectively, and the third has recently been considered by the Select Committee on the Bill to amend the law relating to Imprisonment for Debt.

3. The following portions of the Bill, as amended by us, appear to call for remark:—

(14) *Section 24.*—Under this section it will be competent to Courts in British India to send their decrees for execution to those Courts out of British India which are authorised by section 229 of the Code to cause their decrees to be executed by British Indian Courts.

(15) *Section 25.*—The last paragraph of section 230 is spent and may now be removed from the Code.

(16) *Section 26.*—It is proposed to amend section 244 of the Code in order to remove doubts which have arisen as to how representatives are to be ascertained, and whether orders staying execution are orders under the section.

(17) *Section 27.*—The conflicting rulings of the Courts with respect to the construction to be placed on the last paragraph of section 258 render it necessary to amend that paragraph.

In section 66, sub-section (1), of the Bill we have proposed to extend from twenty to ninety days the period of limitation for an application by a judgment-debtor for the issue of a notice to a decreeholder to show cause why a payment or adjustment out of Court should not be recorded as certified.

(18) *Section 28.*—We have added a clause exempting from liability to sale in execution of a decree of a Civil Court any moveable property which any local law exempts from liability to sale in satisfaction of an arrear of land-revenue.

(19) *Section 29.*—This section is intended to remove a doubt as to attachment being a necessary preliminary to the sale of property in execution of a decree which orders the sale in pursuance of a contract specifically affecting the property.

(20) *Section 30.*—The addition which we have proposed to make to section 320 follows the interpretation which has been placed on that section by the Allahabad High Court (I. L. R. 5 All. 314) and by the executive authorities of the North-Western Provinces, the Central Provinces and Lower Burma.

(21) *Section 31.*—Sub-section (1) will remove the doubt as to the construction to be placed on the words "under arrest" in section 349.

Sub-sections (2) and (3) correct obvious errors in the Code.

Sub-section (4) has been inserted at the instance of the High Court at Fort William. The inconvenience of there being two different systems of insolvency law in force in the same place was pointed out by several Judges of that Court in their remarks on the Indian Bankruptcy Bill of 1886. In not excluding from the operation of Chapter XX of the Code the towns mentioned in section 66 of the Burma Courts Act, 1875, we have had regard to the opinion expressed by the Recorder of Rangoon in his letter No. 66—19, dated the 7th April, 1885, and by the Officiating Recorder in his letter No. 107—43, dated the 20th June, 1885, at the time when the Bill which became Act XIV of 1885 was under consideration, and to the fact that jurisdiction in insolvency is exercised under the Code in Rangoon by the First Judge of the Court of Small Causes established there.

(22) *Sections 32, 53 and 66.*—We have extended to six months the period of limitation for applications under sections 365, 366 and 368 of the Code and provided for such applications being admitted after that period in exceptional cases.

(23) We have omitted section 20 of the Bill as introduced. The addition which it was proposed by that section to make to section 396 of the Code would effect a change in the substantive law of the country which should not in our opinion be brought about in such a Bill as that on which we are reporting.

(24) *Sections 37, 38, 40 and 41.*—The object of these sections is to remove the difficulties which have recently attended litigation on behalf of the minor Rājā of Kapurthala, one of the ruling chiefs of the Punjab and a landholder in that Province and in Oudh.

(25) *Section 43.*—On the recommendation of the Government of the North-Western Provinces and Oudh, it is proposed that the Collector shall not be appointed a Receiver without his consent.

(26) *Section 47.*—Section 551 and connected sections have been re-cast in the manner suggested by Mr. R. J. Crosthwaite, the Judicial Commissioner of the Central Provinces. In regard to the amendment of the sections so as to provide for the dismissal of appeals for default under section 551, Mr. Crosthwaite writes as follows:—

"This amendment is necessary, because, as section 551 stands now, an appellant can, if his appeal is fixed for hearing under that section, refrain from appearing and then appeal from the decree of the first Appellate Court dismissing his appeal. The Court of second appeal will then have to consider the appeal and decide it, because the provisions of section 556 do not apply in the case of an appeal dealt with under section 551. When a first appeal is dismissed under section 556 for default, there is practically no second appeal, because the second Appellate Court must hold that, as the appellant did not appear in the Court of first appeal, that Court's decree dismissing the appeal was under section 556 correct; but when an appeal is fixed for hearing under section 551, and the appellant not appearing, his appeal is dismissed, section 556 does not apply; and an appellant can thus ignore the Court of first appeal and take his appeal to the High Court. Section 556 does not I think apply, because there can be no doubt that the words 'on the day so fixed' mean 'the day fixed under section 552 for hearing the appeal'. This state of the law is anomalous and, considering that a Court of second appeal is supposed to go by the findings of fact of the Court of first appeal, inconvenient. If an appellant does not appear on the day fixed for hearing, whether it be fixed under section 551 or section 552, his appeal should be dismissed; but he should have a right to apply for re-admission under section 558."

(27) *Section 48.*—We have endeavoured by this section to remove difficulties which the Courts have experienced in the admission of objections taken by way of cross-appeal.

(28) Sections 49, 50, 51 and 52.—The sections of the Code which these sections affect have in practice been found to limit unduly the discretion of Appellate Courts.

(29) Section 55, sub-section (2).—This sub-section has been suggested by the Judicial Commissioner of the Central Provinces with reference to the case reported at I. L. R. 11 Bom. 603.

(30) Section 56.—We propose that appeals from such orders as are appealable should lie in all cases to the ordinary appellate authority.

(31) Section 60.—This section is intended to give effect to the suggestion contained in the following extract from a letter received by the Government of India from the High Court at Fort William:—

"In this province it is often difficult to tell whether a suit should be instituted in the Small Cause Court or a Court possessing ordinary civil jurisdiction. Numerous cases have been brought to the cognizance of this Court in which great inconvenience, hardship and injustice have been caused in this way. A suit is brought in the first instance in the Small Cause Court, and that Court declares that it has no jurisdiction and dismisses the suit. The plaintiff then institutes the same suit in the Munsif's Court, which, upon trial, gives him a decree. The defendant thereupon appeals to the higher Courts, and it is held that the Munsif had no jurisdiction, and accordingly the suit is dismissed. The result is that the unfortunate suitor gets no relief anywhere. And this same result also follows when the Court of first instance holds that it has no jurisdiction, and also when the suit is in the first instance instituted in the Civil Court and the suitor subsequently goes to the Small Cause Court. The Judges think questions of jurisdiction and errors as to jurisdiction should be susceptible of being dealt with and cured by the High Court by transfer, affirmation of decree or otherwise; and they think that the order of the High Court as to jurisdiction should be final."

(32) Section 61.—We have so modified the proposed addition to section 648 as to admit of orders being sent to the Courts of Small Causes at Calcutta, Madras, Bombay and Rangoon for the attachment of moveable property only.

(33) Section 64.—This section corrects a defect in the form under section 263 which has been noticed by Mr. Justice Brandt.

(34) Section 65.—By this section it is proposed to set at rest the question whether the registration of certificates of sale of property of value exceeding one hundred rupees is or is not compulsory. Whatever the law may have been before the passing of Act XII of 1879, the legislature could hardly have contemplated the registration of such certificates by auction-purchasers after the passing of that Act.

4. The publication ordered by the Council has been made as follows:—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India		4th, 11th and 18th September, 1886.
Fort Saint George Gazette		24th September, 1886.
Bombay Government Gazette		9th September, 1886.
Calcutta Gazette		15th, 22nd and 29th September, 1886.
North-Western Provinces and Oudh Government Gazette		11th, 18th and 25th September, 1886.
Punjab Government Gazette		9th, 16th and 23rd September, 1886.
Central Provinces Gazette		18th and 25th September, 1886.
Burma Gazette		25th September, and 2nd and 9th October, 1886.
Assam Gazette		25th September, and 2nd and 9th October, 1886.
Coorg District Gazette		1st October, 1886.

<i>Province.</i>	<i>In the Vernaculars.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil		21st December, 1886.
	Telugu		25th January, 1887.
	Hindustani		25th January, 1887.
	Kanarese		11th January, 1887.
Bombay	Malayalam		8th January, 1887.
	Marathi		20th January, 1887.
	Gujarathi		27th January, 1887.
	Kanarese		20th January, 1887.
Bengal	Bengali		8th March, 1887.
	Hindi		25th January, 1887.
	Uriya		16th, 23rd and 30th December, 1886.
North-Western Provinces and Oudh	Urdu		11th, 18th and 25th December, 1886.
Punjab	Urdu		9th, 16th and 23rd December, 1886.
Central Provinces	Hindi		22nd and 29th December, 1887.
Burma	Burmese		25th December, 1886, and 1st and 8th January, 1887.
Coorg	Kanarese		1st February, 1887.

5. We do not think that the Bill has been so altered as to require re-publication, and we recommend that it be passed as amended by us.

ANDREW R. SCOBLE,
C. U. AITCHISON.
RANA SHANKAR BAKSH SINGH.
PEARI MOHAN MUKERJI.
G. H. P. EVANS.
J. W. QUINTON.

The 10th March, 1888.

No. II.

A Bill to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.

XIV of 1882. WHEREAS it is expedient to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877; It is hereby enacted as follows:—

I. (1) This Act may be called the Civil Procedure Code Amendment Act, 1888; and

(2) It shall come into force on the first day of July, 1888.

2. (1) In this Act, unless there is something repugnant in the subject or context, "section" means a section, "schedule" a schedule, and "Chapter" a Chapter, of the Code of Civil Procedure.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

3. The following shall be inserted after section 4, namely:—

XIV of 1882. "4 A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

[New.] "(2) 'Revenue Court' in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force."

[Cl. Act XV, 1882, Schedule L.] Repeal of part of section 8. 4. The second paragraph of section 8 is hereby repealed.

Addition to section 14. 5. To section 14 the following shall be added, namely:—

[I. L. R. 5 Bom. 298 and 6 Mad. 194.] "Where a suit is instituted in British India or on the judgment of any foreign Court in Asia

or Africa except a Court* of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Court of the Straits Settlements, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed."

6. The following shall be inserted after section 16, namely:—

"16A. (1) When it is alleged to be uncertain within the local limits of the jurisdiction of which two or more Courts any immovable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

"Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

"(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto."

7. In section 17, after Explanation II, the following shall be inserted, namely:—

"EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely:—

- the place where the contract was made;
- the place where the contract was to be performed or performance thereof completed;
- the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable."

8. In section 27 there shall be inserted after the words "the Court may" the words "at any stage of the suit", and after the words "any other person or persons" the words "with his or their consent".

*e.g., Supreme Court of the Straits Settlements, te.g., Her Majesty's Supreme Court for China and Japan at Shanghai.

[I. L. R. 4 All. 423 and 5 All. 277.]

[I. L. R. 5 Cal. 370. Cf. Rules under Judicature Acts, XVI. 2.]

[I. L. R. 9
Cal. 695, 6
Mad. 239, 5
Bom. 609, and
7 All. 79.]

Substitution of new
section for section 53.

9. For section 53 the following shall be substituted, namely:—

When plaint may be rejected, returned for amendment or amended.

"53. The plaint may, at the discretion of the Court,—

(a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action;

(b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—

(i) is not signed and verified as hereinbefore required,

(ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,

(iii) is wrongly framed by reason of nonjoinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or

(iv) is not framed in accordance with the provisions of section 42;

(c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit:

[L. R. 14 In.
App. 111.]

"Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

"When a plaint is amended under this section the amendment shall be attested by the signature of the Judge."

Substitution of new
section for section 72.

10. For section 72 the following shall be substituted, namely:—

"72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

"(2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct."

11. In section 82, for the first twenty words the following shall be substituted, namely:—

"When a summons is returned under section 80, the Court shall if the return under that section has not been verified by the affidavit of the serving-officer, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings."

Substitution of new
section for section 90.

12. For section 90 the following shall be substituted, namely:—

"90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent, Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service."

Substitution of new
sections for sections 141
and 142.

13. For sections 141 and 142 the following shall be substituted, namely:—

"141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:—

(a) the number and title of the suit,

(b) the name of the person producing the document,

(c) the date on which it was produced, and

(d) a statement of its having been so admitted,

and the endorsement shall be signed by the Judge.

"(2) If a document so admitted is an entry in a book, account or record and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

"141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

"(2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a

party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

(i) where the record, book or account is produced on behalf of a party, then by that party, or

(ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

"(3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

"142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of section 141, sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.

"142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.

"(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them."

14. In section 143, for the words and figures "sections 62, 141 and 142" there shall be substituted the following, namely:—

"section 62, section 141A, sub-section (3), or section 142A, sub-section (2)."

15. In section 159 the words "or sent" shall be inserted after the word "delivered".

16. In section 168, for the words "shall examine the serving-officer on oath" the following shall be substituted, namely:—"shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court."

17. The following shall be inserted after section 185, namely:—

"185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, that falling under a description set forth therein, that

[Act X, 1882,
ss. 357 et
seqq.: Act
XVII, 1875,
s. 20: Act
XX, 1875,
ss. 11 and 12:
and Act
XVIII, 1876,
s. 19.]

Power for Local Government to require evidence to be recorded in English.

Power for Local Government to require evidence to be recorded in English.

evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.

"(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

"(3) Evidence taken down under sub-section (1) or sub-section (2) shall be in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.

"(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1)."

Addition to section 18. For section 191 the following shall be substituted, namely:—

"191. (1) Where the Judge taking down any evidence, or causing any memorandum to be made, under this Chapter, is prevented by death, transfer or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it.

"(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25:

"Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh."

19. To section 193 the following shall be added, namely:—

"A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173."

20. (1) In section 209, for the first thirteen words the words "When a decree is for the payment of money" shall be substituted.

(2) To the same section the following shall be added, namely:—

"Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie."

[I. L. R. 7
All. 857 and
8 All. 35 and
577.]
[13 W.R. Civ.
Rul. 398: 6
N.W.P.H.C.
R. 80: and I.
L. R. 7 All.
342.]

[L. R. 2 I. A.
219 and 51.
A. 78.]

[I. L. R. 7
All. 284.]

21. (r) In section 216, for the first twenty-four words the following shall be substituted, namely:—

"If the defendant has been allowed a set-off against the claim of the plaintiff,"

(2) To the same section the following shall be added, namely:—

"The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise."

22. In section 223, for the words "in a case cognizable by a Court of Small Causes" the following shall be substituted, namely:—

"in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes."

23. In section 229, after the word "established" the words "or continued" shall be inserted.

24. After section 229 the following shall be inserted, namely:—

"229A. So much of the foregoing sections of this Chapter as empowers a Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply."

25. The last paragraph of section 230 is hereby repealed.

26. (r) In section 244, for clause (c), the following shall be substituted, namely:—

"(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof."

(2) To the same section the following shall be added, namely:—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

27. For the last paragraph of section 258 the following shall be substituted, namely:—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

28. (r) In the first proviso to section 266, clause (a), the words "and bedding" shall be inserted after the word "apparel".

(2) In the same proviso, clause (b), after the word "cattle" the words "and seed-grain" shall be inserted.

(3) In the same proviso, for clause (h) the following shall be substituted, namely:—

"(h) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

(i) the whole of the salary where the salary does not exceed twenty rupees monthly;

(ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly; and

(iii) one moiety of the salary in any other case."

(4) To the same proviso, after clause (j), the following shall be added, namely:—

"(m) any allowance declared by any law passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree;

"(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law* applicable to him is exempt from sale for the recovery of an arrear of such revenue."

(5) In the Explanation to the same proviso, for the word and letter "and (j)" the letters and word "(j) and (m)" shall be substituted.

29. In section 289 the words "on the spot where the property is attached" are hereby repealed.

30. To section 320 the following shall be added, namely:—

"Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and

[I. L. R. 9
Cal. 788, 10
Cal. 354, 5
Mad. 397, 6
Mad. 41, 8
Mad. 277, 6
Bom. 146, 10
Bom. 288, 11
Bom. 6, 3 All.
533, 3 All.
518, 5 All.
269, and 7
All. 124.]

[Act XVIII,
1887, s. 70.]

*e.g. Act
XVII, 1887,
s. 70.

[Cf. I. L. R.
14 Cal. 631.]

[I. L. R. 5
All. 314.]

may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

"A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

"In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII of 1850 (an Act for the protection of Judicial Officers).

31. (r) In section 349, for the words "is under arrest" the words "is in custody under the foregoing provisions of this Code" shall be substituted.

(2) In section 354, between the word "and" and the words "shall operate" the words "every order under that section appointing a Receiver" shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely:—

"A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made, in execution of a decree for money passed by that Court."

(4) At the end of Chapter XX the following shall be inserted, namely:—

"360A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay."

32. (r) For sections 363 and 364 the following shall be substituted, namely:—

"363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit."

34. In section 386, for the words "or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint" the following shall be substituted, namely:—

"or to any pleader or other person whom the

(2) For section 365 the following shall be substituted, namely:—

"365. In case of the death of a sole plaintiff, or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit."

(3) To section 368 the following shall be added, namely:—

"The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon."

(4) After section 372 the following shall be added, namely:—

"372A. The provisions of section 5 of the Indian Limitation Act, 1877, applicable to appeals shall apply to applications under sections 365, 366, 368 and 371."

33. To section 381 the following shall be added, namely:—

"or show good cause why such time should be extended, in which case the Court may extend it."

"Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit."

"The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application."

"The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively."

34. In section 386, for the words "or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint" the following shall be substituted, namely:—

"or to any pleader or other person whom the

[I. L. R. 9
Bom. 56, and
7 All. 396.]

[I. L. R. 6
Bom. 482, and
Act VIII
1859, s. 35.]

[Act XIV,
1882, s. 588
(8): Act XV
1877, Sched.
II, No. 163.]

Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint."

35. In section 419, after the words "Government Pleader in any Court" the words "or such other person as the Local Government may for any Court appoint in this behalf" shall be inserted.

36. In section 424, after the words "intending plaintiff" the words "and the relief which he claims" shall be inserted.

37. (1) In section 432, after the words "British India" the following shall be inserted, namely:—

"or at the request of any person competent in the opinion of the Government to act on behalf of such Prince or Chief,"

(2) To the same section the following shall be added, namely:—

"An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

"A person appointed under this section may authorise or appoint persons to make and do appearances, applications and acts in any such suit or suits as if he were himself a party to the suit or suits."

38. For section 433 the following shall be substituted, namely:—

"433. (1) Any such Prince or Chief, and any ambassador or envoy of a Foreign State, may, with the consent of the Governor General in Council, certified by the signature of one of the Secretaries to the Government of India (but not without such consent), be sued in any competent Court.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and,

except with the consent of the Governor General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

(4) The Governor General in Council may, by notification in the Gazette of India, authorise a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor General in Council and a Secretary to the Government of India, respectively.

(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property."

39. (1) Section 434 shall become section 229B, and any reference made before the commencement of this Act in any notification or other document to section 434 shall be read as a reference to section 229B.

(2) In section 229B, the words "or continued" shall be inserted after the word "established".

40. After section 433 the following section shall be inserted, namely:—

"434. A Sovereign Prince or ruling Chief may sue, and shall be sued, in the name of his State: [Cf. I. L. R. 2 All. 690 and 7 Bom. H. C. Rep. O. C. J. 150.]

"Provided that in giving the consent referred to in the last foregoing section the Governor General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name."

41. To section 464 the following shall be prefixed, namely:—

"Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor General in Council or a Local Government, in the name of an agent or in any other name, and".

42. In section 503, clause (d), the words "as the Court thinks fit" shall be inserted after the words "by way of remuneration".

43. In section 504, for the words "the Court may appoint the Collector" the words "the Court may, with the consent of the Collector, appoint him" shall be substituted.

44. In section 539, for the words "having a direct interest" the words "having an interest" shall be substituted. [2 Swanst. R. 8, Cal. 32, and 7 All. 178.]

[I. L. R. 2 Cal. 272, 8 Bom. 644, & 4 All. 387.]

Addition to section 540. 45. To section 540 the following shall be added, namely:—

"An appeal may lie under this section from an original decree passed *ex parte*."

Addition to section 549. 46. To section 549 the following shall be added, namely:—

"If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the Appellate Court in the same manner as if he were the appellant."

[Punjab Record, Civil Judgment No. 76 of 1882.]

Substitution of new section for section 551. 47. (1) For section 551 the following shall be substituted, namely:—

"551. (1) The Appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader.

(2) If on the day fixed under sub-section (1) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

(3) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made."

(2) For the first paragraph of section 552 the following shall be substituted, namely:—

"Unless the Appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal."

(3) In section 558 the words and figures "section 551, sub-section (2)," shall be inserted before the word and figures "section 556".

[I. L. R. 14 Cal. 610, 8 Bom. 559, & 4 All. 248.]

48. (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely:—

"Provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow."

(2) To the same section the following shall be added, namely:—

"Unless the respondent files with the objection a written acknowledgment from the appellant or his pleader of having received a copy thereof, the Appellate Court shall cause such a copy to be served, as soon as may be after

the filing of the objection, on the appellant or his pleader, at the expense of the respondent.

"The provisions of Chapter XLIV shall, so far as they can be made applicable, apply to an objection under this section." [I. L. R. 1 Bom. 75 and 8 Mad. 214.]

49. (1) In section 562 the words "so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties" are hereby repealed.

(2) In the same section, for the word "investigate" the word "determine" shall be substituted.

50. Section 563 is hereby repealed.

51. In section 565, for the word "shall" the word "may" shall be substituted.

52. (1) In section 566 the words "and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question" are hereby repealed.

(2) In the same section, between the words "the Appellate Court may," and the words "frame issues," the words "if necessary" shall be inserted.

53. (1) In section 582, for the words "the words 'plaintiff,' 'defendant' and 'suit' shall be held to include an appellant, a respondent and an appeal, respectively," the following shall be substituted, namely:—

"the word 'plaintiff' shall be held to include a plaintiff-appellant or defendant-appellant, the word 'defendant' a plaintiff-respondent or defendant-respondent, and the word 'suit' an appeal."

(2) In the same section, the words and figures "including those of section 372A," shall be inserted after the words "The provisions hereinbefore contained".

54. To section 584 the following shall be added, namely:—

"An appeal may lie under this section from an appellate decree passed *ex parte*."

55. (1) In section 588, clause (g), for the word "or" the word "for" shall be substituted. [Gazette of India, 19th August, 1882, Part I, page 535.]

(2) In the same section, clause (16), for the words "the first paragraph of" the words "and orders under" shall be substituted.

56. The first paragraph of section 589, and the word "other" in the second paragraph of that section, are hereby repealed.

57. Section 599, and in section 601 the words "within thirty days from the date of the order," are hereby repealed.

[I. L. R. 2
All. 604 and
12 Cal. 402.]

58. After the second paragraph of section 610 Addition to section the following shall be inserted, namely:—

"In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant:

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

59. To section 626 the following proviso shall be added, namely:—

"and

[I. L. R. 10
Cal. 80 and 4
All. 278.]

"(c) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor."

60. After section 646 the following shall be inserted, namely:—

"646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.

"(2) On receiving the record and statement the High Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

"646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

"(2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.

"(3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

"(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section."

61. (1) For the third paragraph of section 648 Amendment of, and addition to, section 648. the following shall be substituted:—

"and the Court making an arrest under this section shall send the person arrested to the Court

by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him."

(2) To section 648 the following shall be added, namely:—

"Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court."

62. In section 650A, the words "or continued" shall be inserted after the word "established".

63. To section 652 the following shall be added, namely:—

"A High Court not established under the Statute 24 and 25 Victoria, chapter 104 (*an Act for establishing High Courts of Judicature in India*) may, from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person".

65. (1) After clause (n) of section 17 of the Indian Registration Act, 1877, as amended by the Indian Registration Act, 1886, the following clause shall be added, namely:—

"(o) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer."

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

III of 1877.

(3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII of 1879 (*an Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877*):

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

66. (1) No. 161 of the second schedule to the Indian Limitation Act, 1877, shall be transposed and become No. 173A, and the entry against it in the second column of that schedule shall be "Ditto", signifying ninety days.

(2) Nos. 171, 171A and 171B of the same schedule are hereby repealed.

(3) For No. 171C of the same schedule the following shall be substituted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal.	Sixty days.	The date of the order for abatement or dismissal.

(4) After No. 175 of the same schedule the following shall be inserted, namely:—

Description of Application.	Period of Limitation.	Time from which period begins to run.
175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	Six months	The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant.
175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.	Ditto	The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA,

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 16th March, 1888:—

NO. 4 OF 1888.

A Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows—

I. (1) This Act may be called the Measures of Length Act, 1888.

Title, extent and commencement. (2) It extends to the whole of British India; and

(3) It shall come into force on the first day of January, 1889.

[41 & 42 Vic., c. 49, s. 10.] 2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

[41 & 42 Vic., c. 49, s. 4.] 3. An accurate copy, approved as such by the Governor General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch. [41 & 42 Vic., c. 49, s. 11.]

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the Local Government, be deemed to be correct until its inaccuracy is proved.

6. A public servant having in pursuance of such a direction charge of measures by the public, such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioner of Police in the Town of Madras under section 44 of the Act of the Governor of Fort St. George in Council No. VIII of 1867, by the Presidency Magistrates in the Town of Bombay under section 17 of Act XLVIII of 1860 as amended by the Act of the Governor of Bombay in Council No. IV of 1882, and by the Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5. Ben. Act IV of 1866.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill, declaring the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India, is preliminary to intended legislation on the lines of the Merchandise Marks Act, 1887 (50 & 51 Vic., c. 28).

The 16th March, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 14, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 11th July, 1888:

NO. 5 OF 1888.

A Bill to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor-General in Council, No. VIII. of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV. of 1864 (*an Act to amend Act VIII. of 1851*); It is hereby enacted as follows:—

1. Acts VIII. of 1851 and XV. of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and, from the twenty-first day of August, 1857, and the twenty-fourth day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-

Western Provinces, to or in which Acts VIII. of 1851 and XV. of 1864 may be or have been extended, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII. of 1851.

(2) "Presidency", where that word occurs in section 8 of Act VIII. of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

3. All tolls levied, or purporting to have been levied, under Acts Validation of past VIII. of 1851 and XV. of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July, 1888.

5. In section 2 of Act VIII. of 1851 the words "and the Governor of the of 1851, &c." [Bom. Act III.] Amendment of section 2, Act VIII., 1851. "Presidency of Bombay in Council" are hereby repealed, and the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council".

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to remove doubts as to the operation of Acts VIII. of 1851 and XV. of 1864 in the Punjab, and to validate the levy of tolls in that Province under those Acts.

The introduction of a Bill being expedient for those purposes, the opportunity has been taken to confer in express terms on the Lieutenant-Governor of the Punjab and the Chief Commissioners of Burma, the Central Provinces and Coorg, and on the Local Government of any other province in which the Acts may for the time being be in force, the authority which is conferred on the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-Western Provinces by section 2 of the Act of 1851, and to declare the word "Presidency" in section 8 of that Act to mean the territories under the administration of a Local Government.

G. R. ELSMIE.

The 11th July, 1888.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 28, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th July, 1888:

NO. 6 OF 1888.

A Bill to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows:—

Addition of section to Act XIII of 1885.

I. The following section shall be added to that Act, namely:—

"34. (1) This Act, in its application to the presidency-towns, shall be read as if for the words 'District Magistrate' in section 16, sub-section (1),

Application of Act to presidency-towns and Rangoon.

and section 17, sub-sections (2) and (3), for the words 'Magistrate of the first or second class' in section 18, sub-section (1), and for the word 'Magistrate' in section 18, sub-section (2), there had been enacted the words 'Commissioner of Police', and for the words 'District Judge' in section 16, sub-sections (3), (4) and (5), the words 'Chief Judge of the Court of Small Causes'.

(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words 'District Judge', wherever they occur in that section, there had been enacted the words 'Judge of the Court of Small Causes'.

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882." XV of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to add to the Indian Telegraph Act, 1885, a section which is required in order to remedy an oversight. In the absence of such a section certain portions of the Act which were intended to be operative in presidency-towns and Rangoon are inoperative there.

The 25th July, 1888.

C. A. ELLIOTT.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th July, 1888:

NO. 7 OF 1888.

A Bill to regulate the payment of duty in respect of Salt where there has been an alteration of the rate of duty payable in respect thereof.

WHEREAS it is expedient to regulate the payment of duty in respect of salt where the duty payable in respect thereof has been either enhanced or reduced; It is hereby enacted as follows:—

Title and extent. I. (1) This Act may be called the Salt-duty Act, 1888; and

(2) It shall extend to the whole of British India.

2. In this Act "manufacture", used with reference to salt, has the meaning assigned thereto by the Indian Salt Act, 1882.

3. Where the rate of duty payable in respect of salt is enhanced or reduced, the provisions of the following clauses shall apply:—

(1) the rate of duty payable in respect of salt manufactured otherwise than by or on behalf of the Government in any part of British India, or in respect of salt so manufactured beyond British India and imported by land into any part of British India, shall be the rate in force in that part under section 7 of the Indian Salt Act, 1882, on the day on which the duty in respect of the salt is paid to the Government:

(2) the rate of duty payable in respect of salt manufactured by or on behalf of the Government in any part of British India, or in respect of salt so manufactured beyond British India and imported

by land into any part of British India, shall be,—

(a) when the duty payable in respect of the salt has been paid to the Government before the time appointed for the enhancement or reduction of the rate of duty to take effect, then the rate in force in that part as aforesaid on the day on which the duty was so paid to a person having authority to receive it on behalf of the Government on that day, and

(b) in any other case, the rate in force in that part as aforesaid on the day on which the duty in respect of the salt is paid to the Government:

provided, with respect to article (a) of this clause, that, where the rate of duty is reduced, a person who has paid duty in respect of salt on any of the three days immediately preceding the time appointed for the reduction to take effect shall, in respect of so much of the salt as has not before that time been delivered at the place of manufacture either to him or a person authorised to hold the salt on his behalf or to a railway administration or other carrier for carriage to his order, be entitled to a refund of the difference between the duty which he has paid and the reduced duty;

(3) the rate of duty payable in respect of salt imported into any part of British India by sea shall be the rate in force in that part as aforesaid on the day on which entry thereof is made for home-consumption or, in the case of salt of which entry has been made for warehousing, the rate so in force in that part on the day on which the salt is cleared for home-consumption.

4. The provisos to section 37 of the Sea Customs Act, 1878, shall not apply to salt, and this Act shall take effect notwithstanding anything in that Act or in any other enactment for the time being in force.

STATEMENT OF OBJECTS AND REASONS.

By the operation of the proviso to section 37 of the Sea Customs Act, 1878, an enhancement of the salt-duty does not come into effect with respect to sea-borne salt for two or three months after it is proclaimed. As the effect upon prices is immediate, the result is that the consumer has to pay as much as if the salt bore the enhanced rate of duty, but the increase which he pays goes not to the Treasury but to the individuals who happen to be the owners of the salt which is at sea on its way to India. The first object of the present Bill is to claim for the Treasury this enhancement of the price which the fiscal action of the Government in enhancing the duty enables the holder to realize from the consumer.

Opportunity has been taken to define the operation of enhancements and reductions of duty with respect to salt manufactured in India. It is the object of the Government to give all possible facilities to the trade for the payment of duty and the purchase of salt. It is necessary to define, with reference to the procedure adopted for this purpose, the exact incidence of an enhancement or reduction of duty, so as to avoid claims and contentions which have arisen on past occasions of the alteration of the rate of duty.

The 25th July, 1888.

J. WESTLAND.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th July, 1888:

NO. 8 OF 1888.

A Bill to repeal certain enactments relating to Contagious Diseases.

WHEREAS it is expedient to repeal certain enactments relating to contagious diseases; It is hereby enacted as follows:—

- I. The enactments specified in the schedule are repealed to the extent mentioned in the third column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XIV of 1868.	Indian Contagious Diseases Act, 1868.	So much as has not been repealed.
XXVI of 1868.	Municipal Lock-hospitals.	The whole.
<i>Act of the Governor of Fort St. George in Council.</i>		
IV of 1884	Madras District Municipalities Act, 1884.	The words "the application of the Indian Contagious Diseases Act" in section 113.

STATEMENT OF OBJECTS AND REASONS.

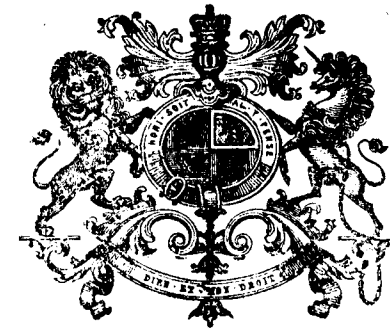
IN 1882 the Government of India, after enquiry into the working of the Indian Contagious Diseases Act, 1868, proposed to repeal it. The Secretary of State, however, considered that further experience was desirable before repealing the Act, but he left to the Government of India discretion to suspend its operation. The Act was accordingly withdrawn from operation in Calcutta. Further consideration of the question satisfied the Government of India that it ought also to be withdrawn in the towns of Madras and Bombay and two other towns in British India in which it had been maintained. Orders to this effect were issued on 19th May last. As there is no probability of the Act in its present form being revived, it is proposed to remove it and any subsidiary Acts dependent on it from the Statute-book.

The 25th July, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 25, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August, 1888:

NO. 9 OF 1888.

A bill to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters.

X of 1865.
V of 1881.
VII of 1870.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters; It is hereby enacted as follows:

I. (1) This Act may be called the Probate and Administration Act, 1888; and

(2) It shall come into force on the first day of January, 1889.

Indian Succession Act, 1865.

X of 1865.

2. For the last forty-two words of section 254 of the Indian Succession Act, 1865, the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

3. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

4. For section 277 of the same Act the following shall be substituted, namely:

"277. (1) An executor or administrator shall, on the requisition of the Court which granted the probate or letters of administration, exhibit in that Court, within six months from the date of the grant, or within such further time as that Court may appoint in its requisition, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and on a like requisition shall in like manner, within one year from the date aforesaid or within such further time as the Court may appoint in its requisition, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

(2) Failure to comply with a requisition of the Court for an inventory or account under this section shall be deemed to be an offence under section 176 of the Indian Penal Code, and the submission of an intentionally false inventory or account shall be deemed to be an offence under section 193 of that Code.

(3) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited."

Probate and Administration Act, 1881.

V of 1881.

5. For the portion of section 76 of the Probate and Administration Act, 1881, beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date", the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

6. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date", the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

7. For section 90 of the same Act the following shall be substituted, namely:

"90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

"(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

"(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

"(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

"(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon a copy of sub-sections

(1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

"(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement required by the last foregoing sub-section not having been made thereon, nor shall the absence of such an endorsement authorise an executor or administrator to act otherwise than in accordance with the provisions of this section."

8. For section 98 of the same Act the following shall be substituted, namely:

"98. (1) An executor or administrator shall, on the requisition of the Court which granted the probate or letters of administration, exhibit in that Court, within six months from the date of the grant, or within such further time as that Court may appoint in its requisition, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and on a like requisition shall in like manner, within one year from the date aforesaid or within such further time as the Court may appoint in its requisition, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) Failure to comply with a requisition of the Court for a inventory or account under this section shall be deemed to be an offence under section 176 of the Indian Penal Code, and the submission of an intentionally false inventory or account shall be deemed to be an offence under section 193 of that Code. XLV of 1860.

"(3) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited."

Court-fees Act, 1870.

9. Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed. VII of 1870.

Miscellaneous.

10. (1) Notwithstanding anything in the Probate and Administration Act, 1881, an executor or administrator to whom a grant of probate or of letters of administration with

copy of the will annexed was made before the first day of April, 1881, under the Hindu Wills Act, 1870, or an executor or administrator to whom a grant of probate or of letters of administration has been made before the commencement of this Act, under the Probate and Administration Act, 1881, shall be deemed to have had and to have power to dispose, as he might or may think fit, of all or any of the property of the deceased which was or is for the time being vested in him. XXI of 1870.

(2) Nothing in sub-section (1) shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

11. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture.

12. The following portion of section 7, clause (3), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled the Public Demands' Recovery Act, 1880, namely:

"or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H," hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

UNDER section 90 of the Probate and Administration Act, 1881, an executor or administrator has power, with the consent of the Court by which the grant of probate or of letters of administration was made, to dispose of the property of the deceased, either wholly or in part, in such manner as he thinks fit.

A proviso to the section enacts that the Court may, when granting probate or letters of administration, exempt the executor or administrator from the necessity of obtaining such consent as to the whole or any specified part of the assets of the deceased.

It has been represented to the Government of India that it is only recently that the restrictive effect of this section has been realised, and that Hindus have gone on taking out probates and letters of administration and acting under them as if they had the same effect as probates, and letters of administration with copy of the will annexed, had under the Hindu Wills Act, 1870, up to the first day of April, 1881. They now find that such of their transfers of property as they had not power to make under Hindu law are invalid. It appears also that for some years after Act V of 1881 had come into force no distinction was made in the Public Debt Office between the powers of European and those of Asiatic executors.

The confusion caused by the restricted form of probate and administration under the Act of 1881 is so serious as in the opinion of competent authorities to render retrospective as well as prospective legislation necessary.

In these circumstances it is proposed by section 7 of the Bill to substitute for section 90 of the Probate and Administration Act, 1881, a section conferring on an executor or administrator an absolute power of disposal over moveable property, but, as regards immoveable property, subjecting an executor ordinarily to such restrictions, if any, as are imposed on him by the will appointing him, and an administrator to restrictions similar to those imposed on a guardian by Acts XL of 1858 and XX of 1864. It is also proposed by section 10 of the Bill to confer on persons who have already taken out probate or letters of administration under Act V of 1881 the unrestricted powers, prospectively and retrospectively, which under the Hindu Wills Act used to be conferred, and under the Indian Succession Act are conferred, on executors and administrators.

It is further proposed by section 10 of the Bill to remove a doubt whether section 90 of the Act of 1881 is to be construed, with respect to transfers made after the first day of April, 1881, as applying to executors and administrators to whom probates, and letters of administration with copy of the will annexed, were granted under the Hindu Wills Act, 1870, before that day.

2. The other sections of the Bill are of secondary importance.

Sections 4 and 8 will enable Courts which are not Courts of Record, and cannot punish for such contempt as is involved in the omission to submit an inventory or account, to insist in proper cases, either in the interests of the revenue or at the instance of a person interested in the administration of an estate, on the submission of such documents as Acts X of 1865 and V of 1881 now require to be submitted in all cases, without, however, making any express provision for enforcing their submission.

Sections 2 and 3 are subsidiary to section 4, and sections 5 and 6 to section 8.

Section 9 is designed to remove a doubt which has existed since the enactment of article 2 of the first schedule to the Indian Stamp Act, 1879, with respect to the stamp to which an administration-bond under the Indian Succession Act, 1865, or the Probate and Administration Act, 1881, is liable.

Sections 11 and 12 are suggested by the Public Demands' Recovery Act (Bengal), VII of 1880.

The 17th August, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August, 1888:

NO. 10 OF 1888.

THE SUCCESSION CERTIFICATE BILL.

CONTENTS.

SECTIONS.

1. Title, commencement, extent and application.
2. Repeal.
3. Definitions.
4. Restriction on recovery of debts from debtors of deceased persons.
5. Court having jurisdiction to grant certificate.
6. Application for certificate.
7. Procedure on application.
8. Contents of certificate.
9. Effect of certificate.
10. Requisition of bond from grantee of certificate.
11. Appointment of trustee in case of disputed succession.
12. Local extent of certificate.
13. Appeal.
14. Effect on certificate of a previous certificate or of previous probate or letters of administration.
15. Effect on certificate of subsequent probate or letters of administration.
16. Validation of payments made in good faith to holders of invalid certificates.
17. Extension of certificate.
18. Forms of certificate and extended certificate.
19. Amendment of certificate in respect of powers as to securities.
20. New articles substituted for articles 11 and 12, Schedule I, Act VII, 1870.
21. Mode of collecting court-fees on certificates.
22. Effect of certificate granted or extended by British representative in Foreign State.
23. Effect of decisions under this Act, and liability of holders of certificates thereunder.
24. Prohibition of exercise of certain powers by curators.
25. Effect of certain probates and letters.
26. Amendment of Court-fees Act, 1870, and Bombay Regulation VIII of 1827.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

A bill to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows:

1. (1) This Act may be called the Succession Certificate Act, 1888.

Title, commencement, extent and application.

(2) It shall come into force on the first day of January, 1889; and

(3) It extends to the whole of British India, [Act XX of 1886, s. 6 (2).] inclusive of Upper Burma;

(4) But a certificate shall not be granted [Act XXVII of 1860, s. 23; and Act XXI of 1870, s. 2.] thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by XXI of 1870. of letters of administration with a copy of such a will annexed.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act or under the Regulation of the Bombay Code No. VIII of 1827.

(3) Any enactment except section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be

The Succession Certificate Bill.

(Sections 3-10.)

construed to refer to this Act or to the corresponding portion thereof.

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

Definitions.

[Act I of 1868, s. 2 (12).] (1) "District Court" means a Court presided over by a District Judge: and

[New.]

(2) "security" means—

- any promissory note, debenture, stock or other security of the Government of India;
- any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;
- any stock or debenture of, or share in, a company or other incorporated institution;
- any debenture or other security for money issued by, or on behalf of, a local authority;
- any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for the purposes of this Act.

[Act XXVII of 1860, s. 2.]

4. (1) No debtor of any deceased person shall be compelled by any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof except on the production of a probate or letters of administration or of a certificate granted under this Act and having that debt specified therein, or granted under Act XXVII of 1860 or an enactment repealed by that Act or under the Regulation of the Bombay Code No. VIII of 1827.

[New.]

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

[Act XXVII of 1860, s. 3.]

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

[Act V of 1881, s. 64.]

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:

- the time and place of the death of the deceased and his ordinary residence at the time of his death;
- the family and other relatives of the deceased and their respective residences;
- the right in which the petitioner claims;
- the absence of any impediment under section 1, sub-section (4), to the grant of the certificate; and
- the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

- to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and
- to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be convenient, shall proceed to determine the right to the certificate.

(2) The High Court may, on application made by petition and on cause shown to its satisfaction, suspend the granting of the certificate by the District Court, and may direct such further proceedings for the investigation of the right to the certificate as it thinks fit.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted to receive interest or dividends on the securities specified therein or on any of them, or to negotiate the securities or any of them.

9. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive of the representative title of the person to whom the certificate is granted, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all debtors of the deceased paying their debts to that person.

10. (1) The District Court may require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give a bond to the Judge of the Court to ensure for the benefit of the Judge for the time being, with one or more surety or sureties, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond to some proper person, and that person shall thereupon be entitled to sue on the bond in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons

The Succession Certificate Bill.

(Sections 11-18.)

interested, such amount as may be recoverable thereunder.

[Act XXVII of 1860, ss. 9, 10 and 11.]

Appointment of trustee in case of disputed succession.

11. (1) Where there is a dispute among persons claiming as the representatives of a deceased person to be jointly entitled to be proprietors of any securities, the District Court, on the application of any of the claimants and on cause shown to its satisfaction, may, so far as regards the securities, grant a certificate under this Act to a person appointed by the Court to act as trustee under this section, and shall specify in the certificate the securities and the several persons appearing to such trustee to be the proprietors thereof and their respective shares therein.

(2) The trustee shall be entitled by virtue of such certificate to receive and give discharges for the interest or dividends on the securities, and shall account for and pay the interest or dividends to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and may act for those persons in all other respects concerning the securities, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the Court thinks fit.

(3) If any such dispute among persons claiming to be proprietors of any securities is not ended within two years from the date of the certificate granted under sub-section (1), the trustee may apportion the principal sum of the securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper officer appointed to issue them in the respective names of the several parties certified to be entitled thereto.

(4) The receipt of the trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge against the disputing parties claiming to be entitled to the several amounts for which the securities are issued.

(5) If the amount of the securities in dispute or any part thereof is not sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the trustee may sell and dispose of the disputed securities, or such part as may be necessary, and apportion the proceeds thereof among the parties certified to be entitled to receive the same.

(6) A certificate granted to a trustee appointed under this section shall supersede any previous certificate so far as the previous certificate relates to the securities specified in the certificate granted to the trustee.

[Act XXVII of 1860, s. 7.]

Local extent of certificate.

[Act XXVII of 1860, s. 6: 7. Bom. H. C. R., A. C., 71: 8 W. R., C. R., 376: 17 Cal. 127, 6 W. R., C. R., 566: 1 L. R. 1 Cal. 40, and 1 All. 287: and Punjab Record, Civil Judgment No. 193 of 1888.]

12. A certificate under this Act shall have effect throughout the whole of British India.

13. (1) An appeal shall lie to the High Court from an order of a District Court granting or refusing to grant a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) Subject to the provisions of sub-section (1), and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

14. Save as provided by this Act, a certificate thereunder in respect of any debts or securities shall be invalid if such a certificate has been previously granted in respect of the debts or securities or if a grant of probate or letters of administration has been previously made in respect of the estate including them.

15. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

16. Where a certificate under this Act has been superseded wholly or in part, or is invalid, by reason of the grant of a certificate to a trustee under section 11, or to a person named in an order of the High Court under section 13, or by reason of the certificate having been revoked, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made to, and dealings had with, the holder of the superseded or invalid certificate in ignorance of its supersession or invalidity shall be held good against claims under any other certificate or under the probate or letters of administration.

17. (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation of, any security to which the certificate has been extended may be conferred, and a bond for the purposes mentioned in section 10 may be required, in the same manner as upon the original grant of a certificate.

18. Certificates shall be granted and extended in forms set forth in the second schedule.

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(Sections 19-23.)

19. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring one or other of the powers mentioned in section 8, or by substituting for the power to receive interest or dividends a power to negotiate the security, as the case may be.

VII of 1870.

20. For Nos. 11 and 12 of the second schedule to the Court-fees Act, 1870, the following shall be substituted, namely:—

Number.		Proper fee.
"11. Probate of a will or letters of administration with or without annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value: provided that when, after a certificate has been granted under the Succession Certificate Act, 1888, or any enactment repealed by that Act, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
"12. Certificate under the Succession Certificate Act, 1888.	In any case.	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 17 of the Act.

NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.

Number.	Proper fee.
	(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation of, the security, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained."

21. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under article 12 of the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

(2) Every objection to the grant of a certificate must, when the objector claims, but has not made an application for, the grant of the certificate to himself, be accompanied by a like deposit.

(3) If the application or the claim is allowed, the sum deposited by the applicant or by the objector, as the case may be, shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(4) Any sum received under sub-section (1) or sub-section (2), and not expended under sub-section (3), shall be refunded to the person who deposited it.

22. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

23. (1) No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any other suit or proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the

The Succession Certificate Bill.

(Sections 24-26. The First Schedule.—Enactments repealed.)
(The Second Schedule.—Forms of certificate and extended certificate.)

whole or any part of any debt or security to account therefor to the person lawfully entitled thereto:

[Act XXVII of 1860, s. 9.] (2) But a suit shall not lie against a trustee appointed under section 11 in respect of anything done by him in accordance with the provisions of that section.

[Act XXVII of 1860, s. 17.] 24. (1) Where a certificate has been granted under this Act or any enactment repealed by this Act, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator:

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

[Act XXVII of 1860, s. 18.] 25. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of

Judicature in any case in which the deceased person was not a British subject within the meaning of the charter of the Court and any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865:

X of 1865.

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

VII of 1870.

26. In the Court-fees Act, 1870, section 19, clause viii, the word "or" shall be inserted between the words "probate of a will" and the words "letters of administration": and in the Regulation of the Bombay Code No. VIII of 1827, section 11, the word and figures "section 10" shall be substituted for the words and figures "sections 9 and 10."

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor-General in Council.</i>		
XXVII of 1860.	Collection of debts on successions.	So much as has not been repealed.

Number and year.	Subject to title.	Extent of repeal.
<i>Acts of the Governor-General in Council</i> —contd.		
VII of 1870	Court-fees Act, 1870.	In section 19, clause viii, the words "and certificate mentioned in the first schedule to this Act annexed, No. 12," and the words "or certificate."
XV of 1874	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
V of 1881.	Probate and Administration Act, 1881.	Sections 151 and 153.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
VII of 1880	Public De-mands' Recovery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I."
<i>Regulation of the Bombay Code.</i>		
VIII of 1827	Administration of Estates.	So much as has not been repealed, except sections 10 and 11 and Appendix C.

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 18.)

In the Court of

To A. B.

Whereas you applied on the _____ day of _____ for a certificate under the Succession Certificate Act, 1888, in respect of the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

*The Succession Certificate Bill.**(The Second Schedule.—Forms of certificate and extended certificate.)**Securities.*

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distin- guishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [those securities].

Dated this day of .

District Judge.

In the Court of

On the application of A. B. made to me on the day of , I hereby extend this

certificate to the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value on date of application for extension.
	Distin- guishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers A. B. to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [those securities].

Dated this day of .

District Judge.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to re-enact Act XXVII of 1860 and amend the Court-fees Act, 1870, in accordance with the proposal made by the Hon'ble Major Baring in his Succession Certificate Bill of 1883 and with the suggestions which that Bill evoked from Local Governments, High Courts and other authorities.

2. The following was the Statement of Objects and Reasons which Major Baring appended to his Bill:

"ARTICLE 12, Schedule I, of the Court-fees Act, VII of 1870, provides, among other matters, for the levy of a fee of two per cent. on the amount or value of the property in respect of which a certificate is granted under Act XXVII of 1860. The following note is appended to the article:

'The person to whom any such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all moneys recovered or realized by him under such certificate.

'If the moneys so recovered or realized exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same, and order such person to take out a fresh certificate and pay the fee prescribed by this schedule for such excess.

'In default of filing such statement within the time allowed the Court may cancel the certificate.'

"2. In the course of the discussions in the Legislative Council which preceded the passing of the Probate and Administration Act, V of 1881, a proposal was made by Mr. Pitt-Kennedy that Act XXVII of 1860 and the Court-fees Act should be amended so as to require, from any one obtaining a certificate under the former Act for the recovery of any portion of the estate of a deceased person, payment of a court-fee at the rate of two per cent. on the entire value of the estate.

"3. A circular was thereupon addressed to Local Governments calling for opinions on this proposal.

"The replies received show that the weight of authority is altogether against its adoption; but many of them call attention to the fact, already more than once brought to the notice of the Government of India, that the requirements of the note in the Court-fees Act above referred to are as a rule neglected or evaded, that persons taking out certificates do not file the statements required by it, that the Courts have no proper means of compelling them to do so, and that large amounts of debts are thus collected under certificates obtained for trifling sums.

"4. Various suggestions have been made for enforcing compliance with the provisions of the note; but it appears to the Government of India that there are objections to any device for securing the fee which involves the imposition on the person obtaining the certificate of a duty to be performed after he has obtained the certificate.

"The great mass of the people who take out certificates are so indolent or careless or unintelligent that there is little hope of getting them to comply with the provisions of such a law; and the consequence is that, if it is not allowed to remain a dead letter, as the present law has been, public officers will be constantly compelled to inflict penalties on large numbers of persons many of whom have been guilty of no deliberate wrong.

"5. The simple plan, as it seems to the Government of India, is that already adopted without any warrant of law by some of the officers consulted, namely, to require each applicant for a certificate to file with his application a schedule of the debts in respect of which the certificate is required, and to amend Act XXVII of 1860 so as to make the certificate good only for the debts entered in the schedule, at the same time allowing the certificate-holder, if he afterwards finds that he needs a certificate for other debts, to obtain an extension of the certificate on paying the additional duty, and (if the Court requires him to do so) giving additional security.

"6. The only objection that has been taken to this arrangement is that taken by the Calcutta High Court in their Registrar's letter No. 54, dated 10th January, 1880, printed in paper No. 20 to the Court-fees Bill. They fear that 'improper use' might be made of the schedule 'by fraudulent debtors whose debts were not in the knowledge of the applicant at the time [he filed the schedule], or in some way prejudice might arise.'

"Now, there is little doubt that a fraudulent debtor would take the point referred to, and that he would thereby put the certificate-holder to the trouble of explaining his omission to enter the debt in his original schedule; but there would be no great hardship in this, and there would, on the other hand, be a certain compensating advantage, inasmuch as (as observed in one of the replies to the circular) the fear of this would stimulate applicants for certificates to be careful in compiling their schedules.

"7. Assuming that the law is to be amended in the manner proposed, a further question arises as to what debts the applicant for a certificate should be bound to include in his application. Should he be bound to include—

(a) all debts known to him to be outstanding, including those which could be realised equally well without a certificate; or

(b) only those debts which he chooses to include because he believes he cannot realise them without a certificate?

"The former, it is believed, would be more in accordance with the views of those who framed the existing law; but it appears to the Governor General in Council that it would be sufficient to adopt the second mode of valuation and allow the applicant to take out a certificate in respect of such debts only as he thinks fit. No doubt, a larger revenue might be obtained by insisting on the other mode of valuation; but it is apprehended, having regard to the class of people who take out these certificates, that any system requiring the applicant to give a complete list of debts would, if it was to be thoroughly enforced, necessitate proceedings of an inquisitorial nature for which no sufficient machinery exists and which it would not be worth while to undertake for the sake of the additional revenue to be obtained.

"8. The rule which it is now proposed to lay down, while it dispenses with all proceedings of an inquisitorial or penal nature, may reasonably be expected to lead to some increase of the revenue under this head, inasmuch as, the certificate being expressly limited in its operation to the debts specified in it, the necessity of including in it all debts except those due from persons standing in some peculiarly friendly or confidential relation will be brought home to the applicants, and debtors will probably become alive to the risk they run in paying a debt which is omitted from it.

"The additional revenue realized will not, as just observed, be as large as if the alternative mode of valuation were adopted, but this is a result which, for the reason already stated, the Government is prepared to accept.

"9. The present Bill has been prepared for the purpose of carrying out the above views. The effect of it, if it becomes law, will be that every applicant for a certificate under Act XXVII of 1860 will be required to state in his application the debts in respect of which he desires the certificate. It will be in his option to include what debts he pleases. He will pay duty only in respect of the debts which he elects to include, and the operation of the certificate will be limited to those debts. If he subsequently desires to include other debts, he can have the certificate extended to them on paying the additional duty. The note appended to article 12 of the schedule to the Court-fees Act will not apply to him. For the rest, the amendments made by the Bill in Act XXVII of 1860 and in the Probate and Administration Act, 1881, are of an unimportant nature and merely such as are necessitated by the above alterations in the substance of the law."

3. As regards the main provisions of Major Baring's Bill there was a considerable preponderance of opinion among Local Governments and High Courts in favour of them.

4. But very many authorities, including the Government of the North-Western Provinces and Oudh, the High Court for the North-Western Provinces, the Hon'ble the Advocate General of Bengal, the Administrator General of Madras, Mr. Tremlett of the Punjab Chief Court, and the Hon'ble Mr. Conlan of the Allahabad Bar, urged the repeal of the last thirty words of section 2 of Act XXVII of 1860 on the ground of the difficulty of construing them, of the capricious manner in which they are in practice construed, of their incompatibility with the scheme of Major Baring's Bill, and of the loss of revenue which would necessarily result from their retention. These words have accordingly been omitted from section 4 of the Bill.

5. Another suggestion was that the exemption from court-fees of certificates in respect of debts and securities of value not exceeding one thousand rupees was inconsistent with a scheme which was to allow an applicant to include only as much as he thought fit of the debts and securities of a deceased person. This suggestion has been accepted, and it is proposed in section 20 and the first schedule to amend the Court-fees Act accordingly.

6. A further suggestion was that some higher fee should be charged in respect of debts which were not originally included in a certificate and to which the certificate has to be subsequently extended. This suggestion has also been accepted in section 20 of the Bill.

7. The other portions of the Bill which appear to call for remark are the following :—

Section 2.—With reference to the Probate and Administration Act, 1881, and certain remarks recorded on the Bill of 1883 by Mr. Cordeaux, District Judge of Poona, it is proposed to repeal the Regulation of the Bombay Code No. VIII of 1827. In the consideration of this proposal by the Select Committee the opinions of the Government and High Court of Bombay will of course carry great weight.

Section 3.—Proposals made by the Government of Bombay and the Hon'ble Mr. Conlan have suggested the definition of the word "security".

Sections 9 and 16.—These sections are designed for the protection of persons dealing in good faith with holders of certificates, even though the certificates have been superseded or are otherwise invalid.

Section 10.—This section follows an unanimous recommendation of the Hon'ble Judges of the High Court for the North-Western Provinces.

Section 11.—The retention of this section, which appears to be little used at present, will be for the consideration of the Select Committee to which the Bill is to be referred.

Section 12.—In proposing to make a certificate have effect throughout the whole of British India, the Bill is drawn in accordance with the advice of the Hon'ble Mr. Conlan, who has pointed out the grave inconvenience which sometimes arises from the limitation of the local operation of certificates under Act XXVII of 1860.

Section 13.—In this section it is proposed to specify the orders from which appeals are to lie, and to leave no room for doubt as to the authority of a Court to review its orders.

Section 21.—This section prescribes a practice which has been enforced in the North-Western Provinces for the last ten years.

Section 23.—The early part of the first sub-section was suggested by the Hon'ble Mr. Justice Field.

Section 25.—This section enlarges the effect of the grants of administration at which section 150 of the Probate and Administration Act, 1881, is aimed.

8. In view of the possible effect of section 4 of the Bill, the Governor General in Council desires that Local Governments and High Courts, and the officers who may be consulted by them, will, where any such enactment as the Bombay Civil Courts Act, 1869, section 16, the Oudh Civil Courts Act, 1879, sections 25 and 26, the Punjab Courts Act, 1884, section 29, or the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, sections 23 and 24, is in force, consider its sufficiency, and, where no such enactment is in force, consider whether such an enactment will not be necessary or at least convenient.

The 18th August, 1888.

J. WESTLAND.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August, 1888:

NO. 11 OF 1888.

A bill to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:

1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely:—"Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require."

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

3. To section 589 of the Code of Civil Procedure the following shall be added, namely:

"Provided that an appeal from an order specified in section 588, clause (17), shall lie—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case."

4. Act VIII of 1880 (*an Act to correct a clerical error in the Indian Limitation Act, 1877*) and XV of 1877 section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed.

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(See section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 23 and section 24.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Of Discovery and the Admission, &c., of Documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.

CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to resales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVI.—Suits by Paupers.

CHAPTER XXVII.—Suits by and against Government or Government Servants.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

CHAPTER XXXVI.—Appointment of Receivers.

CHAPTER XXXVII.—Reference to Arbitration.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.

CHAPTER XLVI.—Reference to and Revision by High Court.

CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.

CHAPTER XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY : Section 2, Interpretation-clause.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), Section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.

CHAPTER III.—Of Parties and their Appearances, *Appearance and Act*, section 37, clause (2), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (d), sub-clause (iv), section 55, section 57, clause (d), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

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CHAPTER XI.—Settlement of Issues, sections 150 and 151.

CHAPTER XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

CHAPTER XVIII.—Of Costs.

CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive),

273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVII.—Suits by or against Government or Public Officers.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.

CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.

CHAPTER XXXVI.—Appointment of Receivers, section 503.

CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (2), as relates to immoveable property.

CHAPTER XLVI.—Of Reference to and Revision by High Court.

CHAPTER XLIX.—Miscellaneous.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to remove doubts which have been expressed as to the effect of the Debtors Act, VI of 1888, and the Civil Procedure Code Amendment Act, VII of 1888, on the procedure of Presidency and Provincial Courts of Small Causes, and as to the course of appeal from orders in insolvency-matters under sections 351, 352, 353 and 357 of the Code of Civil Procedure.

As section 653 of that Code (section 8, Act VI, 1888) does not apply to Presidency Courts of Small Causes, and the portions of the Code applicable to Provincial Courts of Small Causes have now to be ascertained by reference to two Acts (XIV of 1882 and IX of 1887), it is considered that the doubts which have been expressed as to the effect of the legislation of this year on the procedure of Courts of Small Causes should be removed by the substitution of new schedules for the second schedule to the Code of Civil Procedure and the second schedule to the Presidency Small Cause Courts Act, XV of 1882.

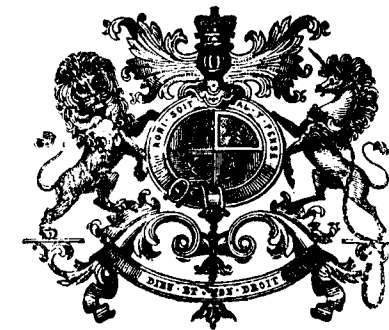
Act VIII of 1880 (*an Act to correct a clerical error in the Indian Limitation Act, 1877*) has been rendered obsolete by section 66 of the Civil Procedure Code Amendment Act, VII of 1888.

The 15th August, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 8, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 5th September, 1888:

NO. 12 OF 1888.

A Bill to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States.

WHEREAS it is expedient to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States in Upper Burma; It is hereby enacted as follows:—

Title. 1. This Act may be called the Shan States Act, 1888.

Definitions. 2. In this Act the expression "Shan State" means a territory for the time being notified under sub-section (3) of section 8 of the Upper Burma Laws Act, 1886, as a Shan State for the purposes of that section and sections 6 and 7 of that Act.

Administration of Shan States by their own chiefs and under their own laws. 3. (1) Subject to the provisions of this Act and of any enactment for the time being in force in a Shan State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, and to such conditions as may have been or may be prescribed by the Local Government, with the approval of the Governor-General in Council, in any instrument recognizing a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognised by the Local Government, with the approval of the Governor-General in Council, as the chief of the State.

(2) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

Participation of the Government in the administration of certain Shan States. 4. The Local Government may, with the previous sanction of the Governor-General in Council,—

(a) appoint officers to take part in the administration of civil and criminal justice and the collection of the revenue within a Shan State;

(b) define the powers and regulate the procedure of officers so appointed;

(c) direct by what authority any jurisdiction, power or duty incident to the operation of any enactment for the time being in force in the State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, is to be exercised or performed; and

(d) modify the customary law of the State in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorises punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India.

5. In extending an enactment to a Shan State under section 8, sub-section (1), of the Upper Burma Laws Act, 1886, the Local Government, with the previous sanction of the Governor-General in Council, may declare its extension to be subject to such restrictions and modifications as that Government thinks fit.

XX of 1886.	<p>6. (1) Notwithstanding anything in section 8, sub-section (2), of the Upper Burma Laws Act, 1886, sections 3 and 5 of this Act shall come into force at once throughout the Shan States.</p>	<p>(2) Notwithstanding as aforesaid, section 4 of this Act shall come into force at once throughout the States known as the Myelat, but shall not come into force in any other Shan State until it is extended thereto by the Local Government with the previous sanction of the Governor General in Council.</p>
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STATEMENT OF OBJECTS AND REASONS.

THE Shan States, which formed part of the territories of Upper Burma formerly governed by King Thebaw, were annexed to the dominions of Her Majesty the Queen-Empress by the proclamation of the first day of January, 1886, and provision was made in the Upper Burma Laws Act, XX of 1886, for extending from time to time to all or any of them any enactments which might be in force in other parts of Upper Burma.

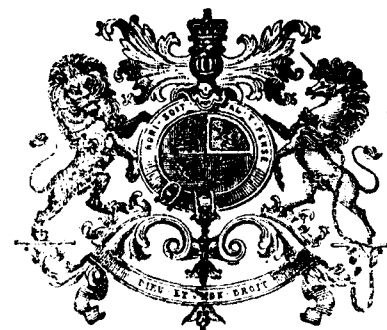
Enquiries instituted by the Chief Commissioner have shown that all the States, except the States known as the Myelat, were administered, under the control of the King of Burma, by their own Chiefs and under their own laws. In the Myelat the officials of the Burman Government took a direct part in the administration. The object of the present Bill is to provide for the continuance, under the superintendence and control of the Local Government, of the system of native administration which, on the annexation of Upper Burma, the British Government found in existence in the Shan States and has hitherto maintained.

ANDREW R. SCOBLE.

The 3rd September, 1888.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 22, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th September, 1888:

No. 13 OF 1888.

A Bill to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889.

WHEREAS it is expedient to supplement by legislation in the Council of the Governor-General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889; It is hereby enacted as follows:—

[Act XXII of 1870, and see 34 & 35 Vict., c. 34, s. 3.]

1. The City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—

(a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge,

be as valid as if they had been passed by the Governor-General of India in Council at a meeting for the purpose of making Laws and Regulations.

2. (1) If before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay.

Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

XIV of 1882.

3. (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees.

Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall defer action upon the order of the Presidency Magistrate until the appeal has been disposed of :

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order

passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion. [Act XIV of 1882, s. 219.]

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself. [Act X, 1882, s. 148.]

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule. [XV of 1877, XIV of 1882.]

STATEMENT OF OBJECTS AND REASONS.

THE object of the first section of the accompanying Bill is to remove all room for doubt as to the validity of those clauses of the Calcutta Municipal Consolidation Act, 1889, and the City of Bombay Municipal Act, 1888, which, as creating in Presidency-towns tribunals having authority to make final orders, might be held to be in derogation of the jurisdiction of the High Courts of Judicature at Fort William and at Bombay respectively.

The other sections of the Bill invest the High Court at Bombay, as a Court of Reference and Appeal, with certain jurisdiction which can certainly be conferred by the Governor-General in Council, but the conferment of which by the Governor of Bombay in Council might possibly be called in question.

The 20th September, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 6, 1888.

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

PART V.

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

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1888:

NO. 14 OF 1888.

A Bill to repeal certain enactments relating to the purchase of regimental necessities from soldiers.

WHEREAS it is expedient to repeal the enactments specified in the schedule to this Act; It is hereby enacted as follows:—

I. The enactments specified in the schedule are hereby repealed.

SCHEDULE.

Number and year.	Subject or title.	Extent of repeal.
<i>Act of the Governor General in Council.</i>		
VII of 1867	Purchase of regimental necessities from soldiers.	So much as has not been repealed.
<i>Regulation of the Madras Code.</i>		
XIV of 1832	Purchase of regimental necessities from soldiers.	So much as has not been repealed.

STATEMENT OF OBJECTS AND REASONS.

THE primary object of this Bill is to repeal Act VII of 1867 (*an Act to reduce the pecuniary penalty for purchasing from soldiers arms, ammunition, clothes and other articles*), and so to enable the Governor-General in Council, under the provisions of the Army Act, 1881, to authorise the imposition of substantial fines on persons purchasing regimental necessities from soldiers. The experience of the past twenty-one years has proved the fines which may be imposed under Act VII of 1867 not to be deterrent. Unlawful traffic in soldiers' kits has been steadily increasing.

The secondary object of the Bill is to repeal an obsolete Regulation of the Madras Code (I. L. R. 10 Mad. 108).

The 2nd October, 1888.

G. CHESNEY.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1888, and was referred to a Select Committee:

NO. 15 OF 1888.

A Bill to amend the Punjab Courts Act, 1884.

XVIII of 1884.

WHEREAS it is expedient to amend the Punjab Courts Act, 1884; It is hereby enacted as follows:—

Title, extent and commencement. I. (1) This Act may be called the Punjab Courts Act, 1888.

(2) It has the same local extent as the Punjab Courts Act, 1884; and,

(3) Except in so far as it amends section 43 of that Act, it shall come into force on the first day of November, 1888.

(4) In so far as it amends that section, it shall come into force on the first day of April, 1889.

XVIII of 1884.

XVIII of 1884.

Substitution of new section for section 3, Act XVIII, 1884. 2. For section 3 of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

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

IX of 1887.

“(1) ‘small cause’ means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887:

“(2) ‘land-suit’ means a suit relating to land as defined in section 4, clause (1), of the Punjab Tenancy Act, 1887, or to any right or interest in such land:

“(3) ‘unclassed suit’ means a suit which is neither a small cause nor a land-suit: and

“(4) ‘value,’ used with reference to a suit, means the amount or value of the subject-matter of the suit.”

XVI of 1887.

XVIII of 1884.

3. The proviso to section 8, sub-section (1), of the Punjab Courts Act, 1884, is hereby repealed.

4. For clause (b) of section 14, sub-section (1), of the Punjab Courts Act, 1884, the following XVIII of 1884. shall be substituted, namely:—

“(b) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Punjab, regulating the conduct of persons so practising, and determining the authority by which breaches of rules under this clause shall be tried;”.

5. For Chapter IV of the Punjab Courts Act, 1884, the following XVIII of 1884. shall be substituted, namely:—

“CHAPTER IV.

“APPELLATE JURISDICTION IN CIVIL CASES.

“39. Save as otherwise provided by any enactment for the time being in force, appeals from decrees of Courts exercising original jurisdiction shall lie as follows, namely:—

(a) to the District Judge from a decree of a Munsif in a small cause of value not exceeding five hundred rupees or in an unclassified suit of value not exceeding one hundred rupees;

(b) to the Chief Court from a decree of a Subordinate Judge or District Judge in any original suit of value exceeding five thousand rupees or from a decree of a Divisional Court in any original suit; and

(c) to the Divisional Court from a decree passed in an original suit by a Munsif, Subordinate Judge or District Judge and not hereinbefore provided for.

“40. (1) A further appeal shall lie to the Chief Court in any of the following cases from an appellate decree of a Divisional Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely:—

(a) if the value of the suit is one thousand rupees or upwards, or the decree involves directly some claim to, or question respecting, property of like value;

- (b) in a land-suit if the Divisional Court consists of a single Judge and the decree varies or reverses, otherwise than as to costs, the decree of the Court below;
- (c) in a land-suit if, in a Divisional Court consisting of more than one Judge, the appeal is heard by two or more Judges and there is not a majority of those Judges concurring in the decree of the Divisional Court confirming, varying or reversing, otherwise than as to costs, the decision of the Court below;
- (d) if on the application of any party a Judge of the Divisional Court certifies that there is a question of law or custom or of general interest involved, and that the case is, in his opinion, of sufficient importance to justify a further appeal:

Provided that—

- (i) an application under clause (d) of this sub-section shall not be received after the expiration of thirty days from the date on which the decree of the Divisional Court is passed, unless the applicant satisfies the Judge that he had sufficient cause for not presenting it within that period; and
- (ii) a further appeal shall not lie in any small cause of value not exceeding one thousand rupees or in any unclassified suit of value not exceeding one hundred rupees.

(2) When an application under clause (d) of sub-section (1) has been refused, and an application for revision is presented to the Chief Court under section 622 of the Code of Civil Procedure as amended by this Act, the Chief Court may certify that a question of law or custom or of general interest is involved, and that the case is, in its opinion, of sufficient importance to justify a further appeal, and the Chief Court may thereupon deal with the application for revision as if it were a further appeal.

"41. Subject to the provisions of the last foregoing section and of sections 595 and 622 of the Code of Civil Procedure, an appellate decree of a District Judge or Divisional Court shall be final."

"42. (1) The Local Government may confer on a Subordinate Judge the powers of a District Judge for the purpose of hearing appeals from the Courts of Munsifs in any local area, and withdraw those powers.

(2) A Subordinate Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

"43. (1) The period of limitation for an appeal under section 39 or section 40 shall run from the date of the decree appealed against, and shall be as follows, that is to say:—

- (a) when the appeal lies to the District Judge—thirty days;
- (b) when the appeal lies to the Divisional Court or the Chief Court—sixty days.

(2) In computing these periods of thirty and sixty days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877:

Provided that, in computing the period of sixty days for an appeal under clause (d) of section 40, sub-section (1), the time during which the application under that clause has been pending shall be excluded.

"44. For the purposes of section 617 of the Code of Civil Procedure, XIV of 1882.

References to Chief Court under section 617 of Code of Civil Procedure.

Chapter shall, except when the value of the suit exceeds one thousand rupees, be deemed to be an appeal in which the decree is final."

6. The following sections shall be added to the Punjab Courts Act, 1884, XVIII of 1884.

"75. (1) When the business pending before any Divisional Court consisting of one Judge, or before the Court of any District Judge, requires the aid of an Additional Judge for its speedy disposal, the Local Government may, upon the recommendation of the Chief Court and with the previous sanction of the Governor-General in Council, appoint to the Court an Additional Divisional Judge or an Additional District Judge, as the case may be.

(2) An Additional Judge so appointed shall discharge any of the functions of a Divisional Judge or District Judge, as the case may be, which the Divisional Judge or District Judge may assign to him, and shall, as regards the discharge of those functions, be deemed, for the purposes of this Act, to be a Divisional Judge or District Judge.

(3) Where an Additional Divisional Judge is appointed to a Divisional Court under sub-section (1), the Court shall not be deemed for the purposes of this Act to be a Divisional Court consisting of more than one Judge.

"76. Subject to the provisions of any enactment for the time being in force, the Chief Court may, of its own motion or on the application of a party, withdraw any proceeding which is pending in any Court subordinate to it and for the withdrawal of which provision is not made in sections 25 and 647 of the Code of Civil Procedure or in section 526 of the Code of Criminal Procedure, 1882, and may either itself dispose of the proceeding or transfer it for disposal to any other subordinate Court."

7. (1) Section 8 of the Punjab Courts Act, XVIII of 1884, shall apply as amended by section 3 of this Act to proceedings pending at the commencement of this Act.

(2) Subject to the other provisions of this Act, appeals from decrees passed and not appealed from before the commencement of this Act shall lie and be disposed of as if the Punjab Courts Act, 1884, had on the third day of October, 1884, been passed as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

The main objects of this Bill are (a) to enable the Chief Court to deal more expeditiously with its accumulated arrears of appellate business and to dispose in future of cases within a reasonable time after they are instituted, and (b) to relieve Divisional Courts of some appellate business which may, it is considered, be safely entrusted to District Judges. In regard to the Chief Court it is proposed to increase the powers of Judges sitting singly and to restrict the right of appeal in certain civil cases in which a greater freedom of appeal is at present allowed than in other parts of the Empire.

The other objects of the Bill are to reduce the periods of limitation for appeals, and to enable the Chief Court to treat an application for revision as a further appeal where an application to a Divisional Court for a certificate that a case is a fit one for further appeal appears to the Chief Court to have been improperly refused.

Section 6 of the Bill will remove difficulties which the Punjab Government and Chief Court have experienced in administering the existing law.

The 2nd October, 1888.

G. R. ELSMIE.

S. HARVEY JAMES,

Secretary to the Government of India.

*The Cantonments Bill.**(Chapter III.—Spiruous Liquors and Intoxicating Drugs.—Sections 9-12.**Chapter IV.—Taxation, Cantonment Fund and Cantonment Authority.—Sections 13-15.)*

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

9. If within a cantonment, or within such limits around a cantonment as the Local Government may by notification in the official Gazette prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barter, sell or supply, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with whipping.

10. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person subject to military law otherwise than as an officer or soldier, or the wife of any such person or of a soldier, has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

11. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence against section 9 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within the limits prescribed under section 9, which at the time of the alleged commission of the subsequent offence belonged to or was in the possession of the person.

(3) The Court convicting a person of an offence against section 9 or section 10 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

12. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by medical practitioners, chemists or druggists.

CHAPTER IV.

TAXATION, CANTONMENT FUND AND CANTONMENT AUTHORITY.

Taxation.

13. (1) With the previous sanction of the Governor General in Council, the Local Government, by notification in the official Gazette, may impose in a cantonment any tax which is specified in any enactment in force at the date of the notification as a tax imposable in any municipality within the territories administered by such Government, and may abolish any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government may, with the like sanction and by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

14. (1) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856 to certain cantonments (to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal) to any cantonment in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

15. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied in a cantonment under Act XX of 1856, a tax on persons

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practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed in the cantonment under section 13 of this Act.

[Act III, 1880, s. 24.] 16. (r) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office, or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

Power to prohibit or exempt from taxation.

[C. R. No. 3145 of 1880 and U.O. Reg. No. 25 of 1884.] [New.] XI of 1881. (2) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

Cantonment Fund and Cantonment Authority.

[New: U.O. Reg. No. 3492 of 1882.] 17. (r) There shall be formed for each cantonment a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

(a) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or any order of the Local Government, all fines recovered in cases in which prosecutions in respect of offences committed within the cantonment are instituted under this Act or any rule thereunder or any enactment applied by any such rule or under section 48 of Act XXIV of 1859, section 34 of Act V of 1861, or section 31 of the Bombay District Police Act, 1867, or under Chapter XIII or Chapter XIV of the Indian Penal Code or section 156 of the Army Act, 1881, or under the Cattle-trespass Act, 1871; and

Bomb. Act VII of 1867.

XLV of 1860 44 & 45 Vict., c. 58. I of 1871.

(b) the proceeds of taxes levied in the cantonment under section 13 or section 14.

[Act III, 1880, s. 23; U.O. Nos. 3776 and 3785 of 1882; B. Pros., May 1882, Nos. 78 to 80; and C.R. No. 9955 of 1882.] (2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like purposes, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily cantoned therein or of any detachment of any such force.

[Act XV, 1883, s. 48.] 18. (r) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

19. The cantonment fund shall be vested in Her Majesty, and, subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

20. (r) The expression "cantonment authority" as used in this Act or in any enactment in force at the commencement of this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being cantoned, whether or not a cantonment committee is to be constituted as the cantonment authority.

21. The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1877, the Indian Telegraph Act, XIII of 1885, and the General Clauses Act, 1887, and the cantonment fund to be "public revenues" within the meaning of the proviso to section 6 of the Land Acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

*CHAPTER V.**IMMOVEABLE PROPERTY IN CANTONMENTS.*

22. Subject to the other provisions of this Chapter and to the rules under this Act, the following provisions shall apply to land included within the limits of a cantonment, namely:—

(a) the land shall be presumed, until the contrary is proved, to have been granted by the Government, and to have been and to be held, subject to the conditions, rules, regulations and orders which, at the time when the grant was made, were applicable to the cantonment; and

(b) the several conditions, rules, regulations and orders set forth in Section XVII (Cantonments) of the second volume (Discipline) of the Army Regulations, India, which were published by the Government of India in the Military Department in the year 1887, and of which extracts are reprinted in the second schedule to this Act, shall, until the contrary is proved, be presumed to be the conditions, rules, regulations and orders which were applicable to the cantonment at the time when the land was granted and subject to which the land has been and is held.

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[New: cf. Army Regulations.] 23. (r) If the commanding officer of a cantonment certifies in writing, with the previous sanction of the general officer commanding the district where he is not himself such general officer, that an officer doing military duty within the cantonment ought to reside within the limits thereof, and either that a house suitable, in the opinion of the commanding officer, for the residence of the officer is vacant within those limits or that, such a house not being vacant within those limits, there is within those limits a house occupied by a person not subject to military law which, in the opinion of the commanding officer, is suitable for the residence of the officer and, with reference to the place where the duty of the officer lies, is more conveniently situated than any other house suitable for his residence and so occupied, the Cantonment Magistrate shall, on the presentation of the certificate of the commanding officer and on the written application of the officer, serve—

- where the house specified in the certificate is vacant, on the owner of the house, or
- where the house specified in the certificate is occupied by a person not subject to military law, on that person and on the owner of the house,

a notice requiring the house to be placed at the disposal of the officer within seven days from the date of the service of the notice where the house is vacant, or within thirty days from that date where the house is occupied.

(2) The officer shall, in his application to the Cantonment Magistrate under the last foregoing sub-section, state the amount of the monthly rent which, with the approval of the cantonment authority, he offers to pay for the house, and the Cantonment Magistrate shall cause that amount to be stated in the notice served on the owner of the house under that sub-section.

(3) At any time within fifteen days from the date of the service of the notice under sub-section (1), the owner of the house may apply to the commanding officer of the cantonment to convene a committee of arbitration to determine the amount of the monthly rent to be paid, and the commanding officer shall thereupon convene such a committee, consisting of—

- the District Magistrate or a Magistrate of the first class appointed by him in this behalf,
- a person to be nominated by the officer for whose occupation the house is required, and
- a person to be nominated by the owner of the house or, in default of his nominating a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment.

(4) The District Magistrate or the Magistrate appointed by him to act in his stead shall be president of the committee.

(5) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice

of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the monthly rent to be paid.

(6) If the owner is aggrieved by the decision of the committee, he may appeal from it, within one month from the date thereof, to the Local Government, and the decision of the Local Government on the appeal shall be conclusive.

(7) If within the time limited by sub-section (3) the owner does not apply to the commanding officer of the cantonment to convene a committee of arbitration under that sub-section, he shall be deemed to have accepted the monthly rent referred to in sub-section (2).

(8) Where the house was vacant, the officer for whose occupation it is required shall be entitled to obtain possession thereof, to the exclusion of any other person, on the expiration of seven days from the date of the service of the notice on the owner under sub-section (1), but, if he so obtains possession of the house and a committee of arbitration is convened under sub-section (3), he shall, for the term for which he may occupy the house, be bound by the decision of the committee or, if that decision is appealed from, by the decision of the Local Government on the appeal.

(9) Where the house was occupied, the officer for whose occupation it is required shall be entitled to obtain possession thereof, to the exclusion of any other person,—

- on the expiration of thirty days from the date of the service of the notice on the owner under sub-section (1) if a committee of arbitration has not been applied for under sub-section (3) or, having been so applied for, has announced its decision on or before the expiration of that period, or
- on the announcement of the decision of the committee if a committee of arbitration has been applied for under sub-section (3) and has not announced its decision on or before the expiration of thirty days from the date of the service of the notice on the owner under sub-section (1).

(10) Where the officer obtains possession on the announcement of the decision of the committee and an appeal is preferred to the Local Government, he shall, for the term for which he may occupy the house, be bound by the decision of the Local Government on the appeal.

(11) When the officer is entitled to obtain possession of the house, the Cantonment Magistrate shall, on the written application of the officer, enforce the surrender of the house to him.

(12) The owner of a house shall not be liable to pay compensation to any person for anything done in compliance with a notice served on him under sub-section (1).

(13) A house shall not be specified in a certificate under sub-section (1) if it is occupied by a bank, or is appropriated by the Government to the use of a public officer, or is owned by or

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is under the control of a railway administration, or is occupied as a hotel or shop and has been so occupied continuously during the three years immediately preceding the time when the occasion for making the certificate arises.

(14) For the purposes of this section the word "house" includes the land and buildings appurtenant to the house, and if a question arises whether land or buildings are appurtenant to the house, it shall be decided by the Cantonment Magistrate, subject to revision by the Local Government, his decision shall be conclusive.

[New: cf. Army Regulations.] 24. (1) Subject to the terms of any agreement between the owner of a house and an officer occupying it, and to the provisions of this section, a lease of a house in a cantonment to an officer shall be deemed to be a lease from month to month terminable without notice in the case of the transfer of the officer from the cantonment in the course of his service, or by fifteen days' notice to the owner in any other case.

(2) A notice under sub-section (1) must be in writing signed by or on behalf of the officer, and the Cantonment Magistrate shall, if the officer so desires, cause it to be served on the owner free of charge.

(3) An officer shall be liable for the whole of the monthly rent of a house in a cantonment for any month, beginning with the first day of the month and ending with the last day thereof, during which he occupies the house for fifteen days or any longer period, and for half the monthly rent for any such month during which he occupies the house for a shorter period than fifteen days.

(4) Sub-sections (8) and (10) of the last foregoing section, with respect to the liability of officers for rent, shall be read subject to the foregoing provisions of this section.

[New: cf. Army Regulations.] 25. (1) If an officer, being a tenant of a house in a cantonment, is unable to induce the owner of the house to execute any repairs which such officer considers necessary, he may apply to the commanding officer of the cantonment to convene a committee of arbitration to decide whether any and, if so, what repairs are necessary, and the commanding officer may, after such inquiry as he thinks fit, convene such a committee, consisting of—

(a) a person to be nominated by the officer occupying the house;

(b) a person to be nominated by the owner of the house or, in default of his nominating a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment; and

(c) a third person to be appointed by the persons nominated under clauses (a) and (b) of this sub-section or, in default of those persons appointing a person within one week from the date of their being called upon to make the appointment, a third person appointed by the commanding officer of the cantonment.

(2) The person appointed under clause (c) of the last foregoing sub-section shall be president of the committee.

(3) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the repairs, if any, which may be necessary.

(4) The decision of the committee shall be conclusive, and within twelve months from the date thereof the commanding officer of the cantonment shall not, without the sanction of the officer immediately superior to him, convene another committee of arbitration for the purpose of considering whether the house requires repairs.

(5) If the committee decides that repairs are necessary, it shall define their extent, and, if the owner of the house fails to commence them immediately and carry them out in such manner and with such expedition as, in the opinion of the Cantonment Magistrate, is reasonable, the tenant may cause them to be executed at rates not exceeding those paid in the cantonment by the Government, and may deduct the cost thereof from any rent due from him, then or afterwards, in respect of the house.

(6) If from any cause the tenant cannot recover, in manner mentioned in the last foregoing sub-section, the cost incurred by him in the execution of any repairs under that sub-section, he may institute a suit against the owner of the house for the cost or any balance thereof remaining unrecovered.

26. (1) Where a building is so dilapidated as, in the opinion of the commanding officer of the cantonment, to be unfit for the purpose for which it was constructed or has been used, that authority may, with the previous sanction of the Local Government, cause a notice to be served on the owner of the building, calling upon him either to make it fit for one or other of those purposes within a time to be specified in the notice, or to comply with whichever of the following requisitions the cantonment authority, with such sanction as aforesaid, may see fit to make, namely:—

(a) where the land on which the building is situated was granted by the Government, to remove the materials of the building and of any building appurtenant thereto and surrender such land granted by the Government as is occupied by or appurtenant to any such building;

(b) whether the land was or was not granted by the Government, to remove the materials of the building.

(2) If the owner is aggrieved by the notice, he may apply to the commanding officer of the cantonment to convene a committee of arbitration to decide whether the building is unfit for the purpose for which it was constructed or has been used, and the commanding officer shall

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thereupon convene such a committee, consisting of—

- (a) a person to be nominated by the cantonment authority;
- (b) a person to be nominated by the owner or, in default of his nominating a person within one week from the date of his being called upon to make a nomination, a person to be nominated by the commanding officer of the cantonment; and
- (c) a third person to be appointed by the persons nominated under clauses (a) and (b) of this sub-section or, in default of those persons appointing a person within one week from the date of their being called upon to make the appointment, a third person appointed by the commanding officer of the cantonment.

(3) The person appointed under clause (c) of the last foregoing sub-section shall be president of the committee.

(4) The decision of the committee shall be determined by the majority of the votes of the members present at a meeting of which notice of the time and place therefor has been served on each of the members of the committee, and the president shall have a second or casting vote in the event of there being an equality of votes with respect to the condition of the building.

(5) If the committee decides that the building is unfit for the purpose for which it was constructed or has been used, the cantonment authority shall cause to be served on the owner a further notice appointing a time, not earlier than that fixed in the notice served under sub-section (1), by which, in default of the building being made fit for one or other of those purposes to the satisfaction of the cantonment authority, the materials and the land, if any, mentioned in the notice served under that sub-section are to be respectively removed and surrendered.

(6) In either of the following cases, namely:—

- (a) if the owner does not apply to the commanding officer of the cantonment to convene a committee of arbitration under sub-section (2) and does not comply, to the satisfaction of the cantonment authority, with the notice served under sub-section (1),
- (b) if the owner applies for such a committee and the committee decides that the building is unfit for the purpose for which it was constructed or has been used, and the owner does not comply, to the satisfaction of the cantonment authority, with the further notice served under sub-section (5),

the Cantonment Magistrate shall, on the application of the commanding officer of the cantonment, cause the materials to be sold by public auction and, where the owner was required to surrender any land, enforce the surrender thereof to the Government.

(7) After deducting the expenses of the sale of the materials, the Cantonment Magistrate shall notify, by notice posted in his office, the balance of the sale-proceeds payable to the late owner.

(8) If a question arises whether any building or land is appurtenant to a building within the meaning of this section, it shall be decided by the Cantonment Magistrate, and, subject to revision by the Local Government, his decision shall be conclusive.

27. A person to be nominated or appointed a member of a committee of arbitration under the foregoing sections of this Chapter must be a person whose services are immediately available for the purposes of the committee, and the nomination or appointment of a person whose services are not so available shall be deemed within the intentment of those sections to constitute a failure to make a nomination or appointment as the case may be.

28. (1) For section 9 of the Indian Registration Act, 1877, the following shall be substituted, namely:—

“(2) Notwithstanding anything in the foregoing sections, every cantonment shall be a sub-district, and the Cantonment Magistrate the Sub-Registrar thereof.”

(2) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, shall, on and from the IV of 1882, commencement of this Act, extend to every cantonment in British India.

CHAPTER VI.

RULES AND SUPPLEMENTAL PROVISIONS.

29. The Governor General in Council may make rules consistent with this Act to provide for all matters respecting which rules may be made, or any of the following matters, namely:—

- (1) the manner in which, and the authority to which, application for permission to occupy land in a cantonment is to be made;
- (2) the conditions which, whether expressed or not, are to be held to be annexed to every such permission given in pursuance of such an application;
- (3) the manner in which any such condition, or any condition annexed to a grant made of land in a cantonment before the commencement of this Act, is to be enforced, and the powers which the Cantonment Magistrate may, on the application of the cantonment authority, exercise for the purpose of enforcing the condition;
- (4) the settlement of disputes with respect to the boundaries of land in a cantonment and the exclusion of the jurisdiction of Civil Courts with respect to such disputes;
- (5) the constitution and procedure of committees of arbitration, their authority to require the production of documents and attendance of witnesses, and the relations of the Cantonment Magistrate and the commanding officer of a cantonment to such committees;

by the commanding officer of the cantonment.

been used, and the commanding officer shall

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- (6) the constitution of cantonment committees, the functions to be discharged by them, the conduct of and the control to be exercised over their proceedings, and the division of duties among the members of such committees;
- (7) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened;
- (8) the duties of the Cantonment Magistrate or of any Special Magistrate having jurisdiction in a cantonment, and his position in relation to the commanding officer of the cantonment;
- (9) the purposes to which the cantonment fund may, after defraying the cost of the police-force employed in the cantonment, be applied;
- (10) the authority on which money may be paid from the cantonment fund;
- (11) the investment of any balance of that fund;
- (12) the execution of contracts by, or on behalf of, the cantonment authority;
- (13) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;
- (14) the application, to a cantonment which is not included in a municipality, of any enactment for the time being in force in any municipality in British India, subject to such restrictions and modifications, if any, as the circumstances of the cantonment may appear to the Governor General in Council to require;
- (15) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under the last foregoing clause;
- (16) the requisitions which may be made on persons having the control of sewers, drains or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;
- (17) the prevention of the overcrowding of buildings and places in a cantonment;
- (18) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary walls, hedges and other fences;
- (19) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping in proper order of lands appurtenant to buildings, and the felling, lopping and trimming of trees on such lands;
- (20) the regulation of encamping-grounds, pounds, sarais, markets and slaughter-houses, and of traffic on roads;
- (21) the use and management of burial and burning grounds;
- (22) the supervision and the regulation of the use of public wells tanks, rivers, streams, springs or other sources from which water is or may be made available for public use;
- (23) the parts of a cantonment in which persons practising any profession or carrying on any trade or calling may be required to reside for the purpose of practising the profession or carrying on the trade or calling, and the conditions, if any, to be observed by such persons;
- (24) the removal and exclusion from a cantonment of persons suffering or suspected to be suffering from any infectious or contagious disorder, and the appointment and regulation of hospitals or other places within or without the cantonment for the reception and treatment of persons suffering from any disease;
- (25) the removal and exclusion from a cantonment, or the destruction, of animals suffering or suspected to be suffering from any infectious or contagious disease;
- (26) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment;
- (27) the prevention of cruelty to animals;
- (28) the prevention and extinction of fires;
- (29) the registration of births and deaths;
- (30) the appointment by house-owners who are absent from cantonments of persons residing within cantonments to act as their agents for all or any of the purposes of this Act or any rule thereunder or any enactment applied by any such rule;
- (31) the powers of, inspection, entry and search which may be exercised in carrying out any of the purposes referred to in the last foregoing clause, and the cases in which breaches of rules under this section are to be cognizable offences;
- (32) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;
- (33) the cases, authorities and conditions in, to and on which orders passed under this Act or any rule thereunder or any enactment applied by any such rule may be appealed from; and
- (34) generally, the carrying out of the purposes of this Act.

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[New: Act I, 1887, s. 6.] 30. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner as the Governor General in Council prescribes.

[Act III, 1880, s. 25; Mad. Act I, 1866, s. 17; and Bom. Act III, 1867, s. 9.] (2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.

[Act III, 1880, s. 26; Mad. Act I, 1866, s. 18; and Bom. Act III, 1867, s. 10.] (3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate and of every Special Magistrate for the time being having jurisdiction in the cantonment.

(4) In making any rule under clause (1) or any of the following clauses of the last foregoing section, the Governor General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

[Act III, 1880, ss. 31 and 32; Mad. Act I, 1866, ss. 26 and 27; and Bom. Act III, 1867, ss. 17 and 18.] 31. The Local Government may, by notification in the official Gazette, extend to any area beyond the cantonment and in the vicinity thereof all or any of the rules in force in the cantonment under clause (1) or any of the following clauses of section 29, and all or any of the directions in force therein under subsection (4) of the last foregoing section, and the rules and directions specified in the notification shall, so long as the notification remains uncanceled, apply to that area as if the area were included in the cantonment.

[Act III, 1880, s. 28; Mad. Act I, 1866, s. 20; and Bom. Act III, 1867, s. 12.] 32. Subject to the provisions of Chapter XXXII of the Code of Criminal Procedure, 1882, the judgment of a Magistrate trying a breach of a rule under section 29 or of any enactment applied by a rule under that section shall be final.

[Act XIII, 1884, s. 157.] 33. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act or any rule thereunder or any enactment applied by any such rule because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

[New.] 34. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any rule thereunder or any enactment applied by any such rule shall, subject to the

provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

35. The Governor General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

THE FIRST SCHEDULE.**ENACTMENTS REPEALED.***(See section 2.)*

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
Act XVIII of 1853.	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854.	Sentences of superintendents of bázars.	The whole, so far as it has not been repealed.
Act XLV of 1860.	Indian Penal Code.	The words "or before a Military Court of Request" in <i>Explanation 1</i> to section 193.
Act V of 1869.	Indian Articles of War.	Part III, clause (c), and for the last twenty-five words of Part I, clause (f), the following shall be substituted, namely:—"and officers in charge of the police in cantonments are defined and controlled."
Act VII of 1870.	Court-fees Act, 1870.	Section 19, clause iv, and in Schedule II, article 1, clause (a), the words "or to a Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859".
Act XV of 1874.	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832: so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation

*The Cantonments Bill.**(The First Schedule.—Enactments repealed.)*

Number and year.	Subject or title.	Extent of repeal.	Number and year.	Subject or title.	Extent of repeal.
		XXII of 1827; and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.		<i>Act of the Governor of Bombay in Council.</i>	
Act XX of 1875.	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.	Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
Act XVIII of 1876.	Oudh Laws Act, 1876.	So much as relates to Bengal Regulation XX of 1810.		<i>Act of the Lieutenant-Governor of Bengal in Council.</i>	
Act XIV of 1879.	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned".	Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
				<i>Regulation under the Statute 33 Victoria, Chapter 3.</i>	
			III of 1877.	Nimere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810. [Reg. No. 317 of 1878.]
Act III of 1880.	Cantonments Act, 1880.	So much as has not been repealed.			
Act XXII of 1881.	Excise Act, 1881.	The proviso to section 53.			
Act X of 1882.	Code of Criminal Procedure, 1882.	Clause (b) of section 1.			
Act XIV of 1882.	Code of Civil Procedure.	Section 6, clause (a), the words "an officer or" in section 468, and the whole of section 469.			

Regulation of the Bengal Code.

Regulation XX of 1810.	Military bázars.	So much as has not been repealed.
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Regulation of the Bombay Code.

Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.
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Acts of the Governor of Fort St. George in Council.

Act IV of 1865.	Madras Cantonments.	The whole, so far as it has not been repealed.
Act I of 1866.	Madras Cantonments.	So much as has not been repealed.

THE SECOND SCHEDULE.

EXTRACTS FROM SECTION XVII (CANTONMENTS), VOLUME II (DISCIPLINE), ARMY REGULATIONS, INDIA.

(See section 22.)

DISCIPLINE.

SECTION XVII.—CANTONMENTS.

I.—General Rules. II.—Grant of Land.

* * * * *

I.—General Rules.

(BENGAL AND BOMBAY.)

1919. The rules and regulations laid down by Government for the administration of military cantonments are to be strictly enforced. A copy of all such rules and regulations in English and in the vernacular language chiefly in use is to be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such place as the Local Government or the Commanding Officer may direct.

* * * * *

1921. The limits of all military cantonments are to be defined by pillars of masonry, erected at each angle of the boundary line, and which are to be replaced whenever they have been destroyed or are not forthcoming.

1922. The boundaries of sadar, station and regimental bázars, and of any villages within the limits of cantonments, are also to be defined by pillars of masonry; and all houses, walls or enclosures improperly built beyond the authorized boundaries are to be

1937. Civil and political officers of Government and officials belonging to the Public Works Department and railways are permitted to reside within the limits of mili-

the necessity for the same, and that the application for the committee is not opposed to the orders of Government (paragraph 1947).

*The Cantonments Bill.**(The Second Schedule.—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)*

thrown down and the ruins and fences removed at the expense of the proprietor or persons by whom they were erected.

1923. No deviation from the fixed limits of a cantonment is permitted without the sanction of Government, to be applied for through the Quartermaster General's department; no alteration of the limits of lines, bázars or compounds can be made without the authority of the Commander-in-chief.

1924. In Bengal, when from any cause any portion of land which has been taken up for military purposes is found to be no longer required for such, a report to that effect is to be made by the Commanding Officer to the Quartermaster General in order that it may be made over to the civil authorities.

* * * * *

1927. Officers commanding stations have authority to direct that numbers be affixed to houses or compounds in cantonments, the expense being borne by the owner or by the cantonment fund, and not by Government, save for buildings actually used for public purposes or the property of Government. Residents may also be directed to affix their names and designations on their houses, compound walls or gateways.

1928. Residents in military cantonments are prohibited from making excavations on any ground within the boundaries, except those made by permission to furnish materials for building, which are to be filled up again, when no longer required, at the expense of the individual concerned.

* * * * *

1935. All matters connected with cantonment lands and boundaries will be conducted, under the orders of the Commanding Officer, by the officer of the Quartermaster General's department at the station, or, in his absence, by the Cantonment Magistrate or the Staff Officer of the station, assisted, if necessary, by the Executive Engineer. Questions requiring the decision of higher authority are to be referred to head-quarters through the Quartermaster General (paragraph 2505, section XXII).

* * * * *

1936. A military cantonment is, as its designation implies, a locality set apart primarily for military and medical officers, chaplains, soldiers, subordinates attached to the troops, and the officers and subordinates of all departments connected with the housing and supplies of the troops, for whom houses situated within such limits are by priority of right available. Regimental officers are required ordinarily to live near the barracks or lines of their respective corps.

1937. Civil and political officers of Government and officials belonging to the Public Works Department and railways are permitted to reside within the limits of military cantonments whenever the public interest may require that they should so reside, or whenever special grounds may exist for granting the indulgence, such as the want of other available shelter, or the necessity of ensuring their personal safety; but these exceptions are not ordinarily to interfere with the priority of right possessed by military officers or others on duty at the station to the houses within its boundaries.

1938. In the event of a house in cantonments occupied by a non-military resident being required for an officer, a formal notice should be served on the occupant requiring him to vacate by a certain date, and warning him that, in the event of his declining or failing to comply, legal proceedings will be taken to enforce compliance. Should the notice (which should be personally served if possible) fail of effect, intimation of the same should be forwarded to the Local Government in order that the necessary steps may be taken in the matter. Commanding Officers should not, however, have recourse to this measure except under the most unavoidable circumstances, when houses are legally claimable and absolutely necessary for the accommodation of officers whose services are actually required in the station, and for whom shelter is not available within a fairly reasonable distance of their duty. In the case of officials mentioned in paragraph 1937, applications for their removal are to be made to the Commander-in-chief through the Quartermaster General for submission to Government.

1939. The owner of any house in a military cantonment not occupied by a person belonging to the army on duty at the station, or by a person directed or authorised by Government to reside therein (paragraph 1937), may be required to rent the same to any military officer belonging to the station who may require it to reside in if the officer commanding the station is satisfied that there is no other suitable house available with due regard to the rank of the claimant and to the duties he may have to perform. In every such case, however, if the owner may have formerly intimated to the officer who has so obtained the house his desire to sell rather than to let it and the offer has not been accepted, the officer may at any time be required to vacate it within a week of his receiving notice through the Staff Officer of the station that the house has, with the consent of the Commanding Officer of the station, been sold to another military officer on duty at the station who requires it for his own residence. The rent to be paid in such cases, or the price to be paid for the house when the claimant accedes to the owner's desire that he shall purchase it, is to be fixed, in the event of the parties disagreeing as to the amount, by a committee of arbitration to be assembled by order of the Officer Commanding the division or district, after he has fully satisfied himself as to the necessity for the same, and that the application for the committee is not opposed to the orders of Government (paragraph 1947).

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1940. In all cases of dispute the owner should be called upon, previous to the assembly of the committee of arbitration, to elect whether he will rent or sell his house: should he elect to rent the house, the committee cannot compel him to sell it.

1941. Houses situated within the limits of military cantonments that may be declared to be for hire can only, according to these Regulations and customs, be let by the month.

1942. A tenant who has once taken possession of a house, or who is occupying it, cannot appeal for any reduction of rent which he may have agreed to pay, nor can a committee be assembled to arbitrate on this point.

1943. Committees of arbitration are to be composed of a civil officer (the principal one, if practicable, at or in the vicinity of the station), the Commanding Officer of the cantonment, and any other individual (who need not belong to either the civil or military services) whom the proprietor of the house may please to nominate. When the Commanding Officer of the station is an interested party, the next senior officer is to be nominated one of the committee in his stead.

1944. When a house is transferred from one officer to another on the occasion of a relief and a difference arises as to terms, the price or rent is to be fixed by a committee constituted as above, with an additional member to be nominated by the intending occupant or purchaser.

1945. In the case referred to in paragraph 1939 the decision of the committee of arbitration is to be conclusive, unless it be reversed by Government, for whose orders the proceedings are to be submitted through the regular channel whenever the proprietor of the premises is dissatisfied with the award; but in the case referred to in paragraph 1944 there is no appeal from the decision of the committee, which is to be final.

1946. Due notice must in every instance be given to proprietors of premises, or to their agents, by the Commanding Officer of the cantonment, of the intention to hold a committee thereon; and, in the event of the owner or agent neglecting to nominate a member of such committee after having received the notice,—which, if the owner or agent be a non-resident in the cantonment or its vicinity, is to be taken to mean an official notification dated one month prior to the day on which the committee is to assemble,—the Commanding Officer will, under the orders of the Officer Commanding the division or district, nominate a member of the committee to represent such proprietor, and the committee will thereupon proceed to arbitration.

1947. When an officer to whom a house in cantonments has been specially allotted under these Regulations may choose, on going away on leave or on temporary duty, to give it up, he has no right to claim the special allotment of a house on his return, under the provisions of paragraph 1939, should a suitable one not be at the time available for rent. In the event of any special circumstances rendering a departure from this rule necessary, the case should be referred to the Quartermaster General for the decision of the Commander-in-chief.

1948. In the event of the tenant of a house considering that the house requires repairs, and of his being unable to induce the owner to execute them, he should call on his landlord to join with him in appointing a committee of arbitration to decide the question. If the cantonment rules are in force, the committee will be composed of one civilian, the Officer Commanding the station and two officers or European residents, to be appointed, one by the landlord and the other by the occupant; otherwise the landlord should be called on to name an arbitrator to act with one to be named by the occupant, who are together to appoint a third in case of difference. In either case the landlord should be informed that, unless within a named time he either executes the necessary repairs or joins in the reference, the occupant will have the repairs done on the landlord's account and risk at the Public Works Departmental rates, and that the costs will be set off against the rent.

1949. In stations where there are no cantonment committees, Commanding Officers are to obtain the sanction of Government through the Commander-in-chief previous to convening committees of arbitration for the valuation of ruined buildings which, for sanitary or other purposes, it may be considered advisable to demolish and remove.

1950. In cases where buildings in cantonments are required for public purposes, the officer of the Public Works Department in executive charge will, under the authority of the Officer Commanding the division or district, settle for the valuation and purchase of the same according to the rules of the Public Works Department, and recourse is only to be had to committees of arbitration in the event of any disagreement, and on the application of the Executive Engineer or of the proprietor of the premises.

1951. Whenever it may be necessary to rent buildings for the use of the troops, the officer of the Public Works Department on the spot is in all cases to arrange for the hiring of such buildings and to obtain sanction for the arrangements in communication with, and assisted by, the local military authorities; and Officers Commanding stations are to bear in mind that they are bound to direct the officer of the Public Works Department to make all necessary provision for

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accommodating the troops in any emergency, whenever this is possible, rather than to act themselves, and thus accept a grave pecuniary responsibility in the event of their action being disapproved of. When, however, the local military authorities have been obliged to act themselves, owing to the absence of the Executive Engineer from the station, it is the duty of such officer on his return to suggest to them any modification of the arrangements which his knowledge and experience might suggest as better for the soldier or more for the interest of Government, and also to submit the arrangements for sanction as if originally made by himself.

1952. Officers Commanding stations are required, in cases of disputes relative to houses or lands in cantonments, before taking action thereon, to submit the same with their opinion for the consideration and approval of the General Officer in local command, who will transmit them to the Quartermaster General if he is unable to decide them himself.

1953. On no account is any church, chapel, mosque, &c., not to be occupied by other building devoted to religious use to be occupied as a dwelling-house or for any other purpose without the full and free consent of the persons interested in it and the sanction of the principal civil or political authority on the spot.

(BOMBAY.)

1954. The limits of cantonments or bázars shall be marked by the local Magistrate or Political Agent and Commanding Officer in conjunction; in marking out the limits of new cantonments private property is not to be included therein.

1955. When the local Magistrate and Commanding Officer shall, in conjunction, have marked the limits, a report and plan thereof are to be signed by both these officers and submitted through the Quartermaster General for the approval of Government and for publication. When approved in General Orders, the limits are then to be marked by pillars or in some other equally permanent manner.

1956. A plan of every cantonment so marked and signed will be kept in the Quartermaster General's office, where it will be duly registered, and a copy thereof, with a register of enclosures, will be furnished by the Divisional or District Assistant Quartermaster General to each Brigadier or Station Commanding Officer, who is to report to divisional headquarters all changes in boundaries or occupations as they occur. All such changes are to be reported by the Divisional Assistant to the Quartermaster General, to enable him to correct the registers and standard plans in his office.

1957. Whenever an alteration may be required in any part of the limits of a cantonment which have been regularly marked out and published, the Magistrate and Commanding Officer are to draw up and sign a report and plan of the entire limits, as proposed after alteration, and a new description will then be published in

General Orders, which will be considered to supersede and cancel the previous plans and register.

1958. When an extension of cantonment limits or the acquisition of ground for other military purposes is proposed, the General Officer commanding the division concerned will prepare (in communication with the civil authorities) a sketch plan exhibiting the ground asked for, together with a description of the same. This plan and description, accompanied by a detail of the reasons for which the acquisition of the land is urged, and a statement of the probable cost of obtaining possession, will be submitted for the information of His Excellency the Commander-in-chief, who, should the object to be attained by the proposed acquisition warrant the proceeding, will forward the same for the sanction of Government.

1959. The preservation of cleanliness is of the first importance, and to this end the encroachment of huts or shops, temporary or otherwise, beyond the space already marked out for that purpose, or extending enclosures or courtyards, without the sanction of Government, is to be particularly prevented; any person erecting such buildings without this necessary sanction will be liable to have them demolished and to be required to remove the materials at his own cost.

1960. All persons residing within military cantonments are required to keep all drains and water-channels in and about their premises free from obstruction; to remove all causes of malaria; to keep their hedges, inner and outer, cut to the height of four feet from the level of the road, and not more than two feet in breadth, and branches of trees lopped off to the height of six feet from the ground.

1961. Civil officers residing or having their offices in a military cantonment shall conform to the general cantonment rules in regard to cleanliness, order and safety from fire in houses and grounds as laid down for all other residents.

1962. Unoccupied houses and grounds in cantonments must be kept in a proper state of order and repair by the owners. Whenever, after due warning, such houses or grounds are left unrepaid to such extent as to be prejudicial to health or to the appearance of the cantonment, application will be made to Government to direct the former to be sold and cleared away and the latter resumed: the proceeds of sale, after paying for the expenses of clearing, to be paid to the owner.

1963. No thatched or grass or mat out-houses are to be built in the officers' lines in cantonments.

1964. The regimental and departmental lines, and all unoccupied ground in military cantonments, are to be guarded from the

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intrusion of persons unconnected with the corps or departments for whom the lines are intended.

1965. A registry is to be made and kept of the inhabitants of every *sadr* and regimental *bázár* above referred to, as a means of preventing unauthorised intrusion, and also with a view to facilitate statistical inquiries (*vide* Division VI).

1966. Trees standing in the compounds of houses within cantonment limits are not private property. When for sanitary or other reasons it is desirable to lop or cut down any such trees, the timber is to be considered the property of the house-owner. Owners or occupants are prohibited from cutting down or lopping any trees within the compounds without the consent of the cantonment committee.

1967. The use of private lands for military purposes should be obtained through the Quartermaster General.

1968. On the 1st of January of each year, periodical reports, in duplicate, on Bombay Form No. 211, are to be submitted, showing for each cantonment whether any buildings, houses, &c., have been newly erected during the period, whether any have been pulled down, and what property has changed hands. These documents should be signed by the Officer Commanding the cantonment and the Cantonment Magistrate or Staff Officer in charge of the register, who will be held responsible that the details are full and complete in every particular.

(MADRAS.)

1969. Cantonments occupied by troops of the Madras Presidency are under rules as follows:—

Secunderabad	Under rules laid down in Bengal Act III of 1880, formerly Bengal Act XXII of 1864.
Kamptee	
Raipur	
Cuttack	
Rangoon	
Tonghoo	
Thyetmyo	
Moulmein	

Belgaum—Under rules laid down in Bombay Act III of 1867, held to be rules under Bengal Act III of 1880.

St. Thos.' Mount	Under rules laid down in Madras Act I of 1866.
Poonamallee	
Wellington	
Palaveram	
Cannanore	
Bellary	Chapters V and VI only of the above applicable.

Trichinopoly—Chapter VI only of the above applicable.

The above Acts have not been made applicable to the cantonments not entered.

1970. The rules contained in these Acts have reference particularly to subjects connected with public health, safety, decency, &c. In addition, the following military rules are laid down for guidance.

1971. A military cantonment is, as its designation implies, a locality the military limits of which have been defined under the authority of Government, and which is set apart primarily for military and medical officers, chaplains, soldiers, European and East Indian subordinates and their families; for whom houses situated within such limits are by priority of right available. This rule, however, is not to interfere with gentlemen of the covenanted civil service, as regards the houses usually occupied by them in military cantonments.

1972. Regimental officers are required to live as near their lines or barracks as is practicable. A certain number of houses for each regiment will, therefore, be set apart in each cantonment by local Commanding Officers, and every opportunity should be taken advantage of to adjust the present inconvenient distribution of officers in cantonments so as to bring all stations under the above arrangement in course of time. Staff officers may be allowed to live in any part of a cantonment.

1973. Other claims for house accommodation noted in the margin* for gentlemen and others will be considered and adjusted by the Officer Commanding the station, with due respect to their rank and position, and with regard to the availability of houses in the cantonment for their use. But these gentlemen cannot retain any house that may be absolutely required for an officer of the military force at the station.

1974. Houses within the limits of a cantonment, built on ground the property of Government, whether held on lease or not, are liable to be occupied as above, under the control of the Officer Commanding the station. Houses built on land not the property of Government, or held on freehold tenure or occupied as shops, are exempt from this liability.

1975. In the case of necessity arising, requiring the removal of a non-military tenant to make way for an officer, not less than one month's notice in writing must be given to the owner as well as the tenant of the house that the house in question is required. No summary ejectment is ever to be permitted, and the greatest consideration should be shown to the occupant whose removal on public grounds is rendered necessary. The Officer Commanding the cantonment may, however, extend the period of such notice when circumstances will admit of it, and other quarters should be provided for the person if removed as above, whenever practicable.

1976. The limits of every military cantonment are to be clearly defined, boundary stones or pillars being erected where there are no well-marked natural boundaries. A plan of each cantonment, on a scale sufficiently large to show every building in it, is to be kept in the office of the Quar-

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termaster General and that of the Divisional Quartermaster General or Station Staff Officer.

1977. The boundaries of *sadr*, station and regimental *bázárs*, and of any villages within the limits of cantonments, are also to be defined by pillars of masonry; and all buildings erected beyond the proper boundaries or assigned limits are to be thrown down, and the ruins removed at the expense of the proprietor.

1978. No deviation from the fixed limits of a cantonment, or from those of the lines, *bázárs* or enclosures surrounding Government buildings is permitted without the sanction of Government, to be applied for through the Quartermaster General's department.

1979. When from any cause any portion of the area of an existing cantonment is found to be no longer required for military purposes, a report to that effect is to be made by the Commanding Officer to the Quartermaster General, in order that it may be made over to the civil authorities.

1980. A register of houses occupied and vacant, showing the rent of each, is to be kept in the station staff office, alterations being made in it from time to time, and no house is to be taken by any non-military officer unless with the concurrence of the Officer Commanding the station, whose duty it will be to see that such occupancy of the house will not interfere with public convenience.

1981. In order that the number of dwelling-houses in a cantonment available for civil and military officers, and officers of public departments, missionaries and others, may not be unduly diminished, no house, built on Government land or land leased from Government, or assigned to Government, for its own use, hitherto occupied as above, shall be converted into a shop, or otherwise rendered unsuitable as a residence, except under the sanction of the Officer Commanding the station; but any houses occupied as shops will not be liable to be registered as dwelling-houses, unless the owners wish it, or His Excellency the Commander-in-chief may consider it absolutely necessary.

1982. At stations such as Secunderabad, where the ground is foreign territory but assigned by the *Nizam's* Government to Her Majesty's Government for military purposes, the above rules, as regards the rental of houses and allotment of officers in the cantonment, are to have equal effect. Bangalore is specially exempted from the operation of these rules. Kamptee and Cuttack are under the Bengal Cantonment Rules.

1983. In ordinary cases the decision of the Station Commanding Officer should be considered final, but appeals may be heard and decided by the Officer Commanding the division or district, and, if necessary, they may be submitted for the

orders of the Commander-in-chief, those submitted by gentlemen of the civil service being forwarded with the observations of His Excellency for final disposal by Government.

1986. Officers Commanding stations have authority to direct that numbers shall be affixed to houses or compounds in cantonments; the expense being borne by the owner or by the cantonment fund, and not by Government, save for buildings actually used for public purposes or the property of Government. Residents may also be directed to affix their names and designations on their houses, compound walls or gateways.

1987. Residents in military cantonments are prohibited from making excavations on any ground within the boundaries except those made by permission to furnish materials for building, which are to be filled up again when no longer required at the expense of the individuals concerned.

1993. All matters connected with cantonment lands and boundaries will be conducted, under the orders of the Commander-in-chief, by the officer of the Quartermaster General's department at the station, or, in his absence, by the Cantonment Magistrate or the Staff Officer of the station, assisted, if necessary, by the Executive Engineer. Questions requiring the decision of higher authority are to be referred to headquarters through the Quartermaster General.

II.—Grants of Land.

(BENGAL AND BOMBAY.)

1994. In no case is any cantonment land to be enclosed or occupied without the sanction of the Commander-in-chief, and Commanding Officers are strictly prohibited from allowing any one to occupy a site, under any circumstances whatever, until such sanction has been officially received; nor are the boundaries of compounds to be changed, old roads closed or new ones opened, without similar authority. Building-sites granted to officers in military cantonments should be no larger than is absolutely necessary, conforming as far as possible to the dimensions laid down in the Public Works Code.

1995. All applications for unoccupied ground for the purpose of being enclosed, built upon or to any way appropriated to private purposes, are to be forwarded, for transmission to the Officer Commanding the station, through the officer of the Quartermaster General's department at the station, or, in his absence, through the Cantonment Magistrate or Staff Officer of the station, as the case may be.

1996. The health and comfort of the troops are paramount considerations to which all others must give way, and the Commanding Officer will be held responsible that no ground is

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occupied in any way calculated to be injurious to either or to the appearance of the cantonment. In forwarding to the Quartermaster General any application for a grant, he must certify that it is not objectionable in these or any other respects.

1997. All such applications are to be made on

Form of application and certificate of Executive Engineer.

Bombay Form No. 212, and must be accompanied by a sketch or rough plan of the site applied for, embracing

the portion of the cantonment adjacent to it, and exhibiting the roads, public buildings or private estates by which it is bounded; also any line of railway proposed or actually passing through the cantonment; and, where the line of railway does not immediately abut on the ground applied for, the direction and distance are to be shown. This plan is to be authenticated by an officer of the Quartermaster General's department at the station, or, when no such officer is present, by the Executive Engineer of the division, to the effect that no departmental objection is known to the application, and that the grant, if made, does not seem likely to interfere with any building existing or likely to be required.

1998. All grants are to be registered (Public

Works Code,* paragraph 62, page 201) by the Cantonment Magistrate where

one is allowed, or otherwise by the Staff Officer of the station; and all grants are to be immediately noted in the plan of the cantonment in the Quartermaster General's office.

1999. No ground will be granted except on the following conditions,

Conditions under which ground is given. which are to be subscribed to by every grantee as well as by those to whom his grant may subsequently be transferred:—

(a) Government to retain the power of resumption at any time, on giving one month's notice and paying the value of such buildings as may have been authorised to be erected.

(b) The ground, being in every case the property of Government, cannot be sold by the grantee; but houses or other property thereon situated may be transferred by one military or medical officer or chaplain to another on a joint report being made to the Staff Officer, who will make the requisite entry in the register, except in the case of relief, when, if required, the terms of the sale or transfer are to be adjusted by a committee of arbitration.

(c) If the ground has been built upon, the buildings are not to be disposed of to any person who does not belong to the army, until the consent of the Officer Commanding the station has been previously obtained under his hand.

(d) When it is proposed with the consent of the Commanding Officer to transfer possession to a native, the procedure prescribed in section VII, paragraph 724, is to be adhered to. This rule

* Edition of 1878.

applies to officers and others in the service of Government only, but the sale or transfer of any house in cantonments must first receive the sanction of the local military authorities.

(e) The Commanding Officer has power to cancel the grant if the ground be not brought into use for the purpose specified within twelve months.

(MADRAS.)

2000. Applications for grants of land within the limits of cantonments or fortresses will be made in the first instance to the Officer Commanding the station in the following form. No grants of land will be made except for the purpose of erecting thereon officers' quarters or shops for the convenience of residents. It will be the duty of the Officer Commanding the station to see that this purpose is fulfilled.

To

THE OFFICER COMMANDING

(STATION).

SIR,

I request you will have the goodness to take the necessary steps for my obtaining a Government grant for the ground herein described.

Situation of the ground. Since when enclosed.	Title under which it is held, and whether the property of Government or of individuals.	EXTENT OF THE GROUND. Square yards.	Nature of the soil. How laid out and whether buildings upon it.	BOUNDED ON THE			
				North by	South by	East by	West by

[Here enter certificate of the Commanding Officer of the station that the ground does not interfere with any parade or military work.]

I am,

SIR,

Your most obedient servant,

2001. The Officer Commanding the station having satisfied himself that there is no objection in a military point of view to the occupation of the ground by the applicant, as also that it does not encroach on or interfere with any public road, parade or military work, will ascertain from the Collector of the district how the land, if the property of Government, is entered in his accounts, and what rent has hitherto been assessed on it; he will then submit the Collector's reply, and a sketch showing the boundaries of the ground and its vicinity, accompanied by the application pre-

*The Cantonments Bill.**(The Second Schedule.—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)*

viously made to him, through the Officer Commanding the division, district or force, to the Quartermaster General, by whom it will be submitted for the consideration of the Commander-in-chief. In the event of its being sanctioned, a lease will be prepared by the Quartermaster General containing the following conditions:—

i.—To hold the lease for fifty years, renewable at the end of every ten years, at the option of Government.

ii.—To pay a yearly ground-rent as per Collector's valuation. To well and sufficiently repair, maintain, amend and keep the premises and appurtenances in such good and substantial repair as is necessary for the occupation of a tenant at rack-rent. To scour and cleanse all drains and water-courses belonging to the premises and keep the same free from obstruction. To remove from the premises and keep the same free from prickly-pear and aloë, and all causes of malaria. Hedges to be of a height not exceeding four feet from the level of the public road in front of, or leading to, the premises. To lop, and keep lopped, the branches of all trees, present and future, which shall grow lower than six feet from the ground.*

iii.—The premises, although maintained in the above order, to be given to Government at any time if required.

iv.—The premises to be open to the Government authorities, to take plans and examine the condition thereof.

v.—All or parts of requirements, if found necessary to be supplied, notice of which in writing to be left at the premises, to be attended to by the lessee within three calendar months.

vi.—Not to do, or willingly cause or suffer any act or thing to be done, in or upon the premises to the annoyance, grievance, damage or disturbance of Government or their tenants.

vii.—On assigning the premises to another, a notice in writing of the assignment to be given to the Officer Commanding the cantonment, with full particulars, within three calendar months.

viii.—The monthly rent should be limited to a sum equal to one-twelfth part of a sum equivalent to rupees fifteen per cent. per annum on the *bona fide* value of the building, to be certified by the local Engineer officer.

ix.—To officers the monthly rent to be limited to, and in no case to exceed, either the said sum or the sum of one hundred rupees, whichever of the said sums shall be least in amount; the meaning being that no more than one hundred rupees a month as rent can be demanded, although the *bona fide* value of the building may be more.

* Quit-rent is not charged in Rangoon, Tonghoo and Thyetmyo, but in Moulmein this yearly payment is levied by the civil authorities under the denomination either of quit-rent or house-tax.

x.—If at any time the tenant, being a military officer, shall consider the rent to exceed the amount mentioned in the foregoing clause, and if the Engineer certify to that effect, the lessee should reduce the rent to what the Engineer shall fix.

xi.—If at any time it is desired to let or sell, the preference should be given to military officers of the cantonment over anybody else.

xii.—If the house is required for the residence of any of the officers of the cantonment, notice in writing to be given to the owner, and after thirty days the house should be vacated for occupation by such officer.

xiii.—If the Government require the land at any time, it should be restored on payment of the fair value of the buildings, to be fixed by the Engineer. If dissatisfied with this value, the amount to be fixed by Government, which decision will be final.

xiv.—The lessee to conform to and obey all present and prospective orders and regulations of Government.

xv.—If the annual rent to Government is not paid within thirty days after the due date, or if the lessee become bankrupt or insolvent, and if there is any execution out against the lessee where the lease shall be seized, or in case of the breach or non-performance of any of the conditions contained in the lease, it shall be lawful for the Government to obtain re-possession of the premises on payment of their value.

xvi.—If the ground is not built upon or brought into use for the purpose specified within twelve months, the lease may be cancelled under the orders of His Excellency the Commander-in-chief.

2002. The grant in perpetuity of any piece of ground within the precincts of any fort or cantonment shall not hereafter

be accorded to any individual. If it is of course sufficient to reject any application for ground if it be ascertained that to grant it would interfere with the public convenience in any manner whatever. With respect to land not the property of Government within fortresses or cantonments, application shall be made through the Collector and Board of Revenue to Government, a certificate from the Commanding Officer being at the same time produced to the effect that the occupation of the land in the manner proposed is free from objection in a military point of view.

2003. All grants of land made by Government under the above provisions shall be entered in the office of the registrar of

Government grants, who is to return them without delay, with his countersignature attached in acknowledgment of their having been recorded

*The Cantonments Bill.**(The Second Schedule.—Extracts from Section XVII (Cantonments), Volume II (Discipline), Army Regulations, India.)*

in his office. No charge is to be made for this duty. The proportion of land allowed to officers of the army requiring it is as follows:—

Field Officers	...	22,500 square yards.
Captains	...	12,000 do.
Subalterns	...	7,000 do.

Although the above is to be considered the usual scale, yet it may occasionally happen that, from the inequality of ground or other local causes, there may be no objection to an extension of the scale.

2004. Officers occupying houses built upon ground for which a grant has been made, considering that they are overcharged for rent, are at liberty to apply to the Officer Commanding the division for a house board; should the house board be of the same opinion, the Engineer of the division will be called on to prepare an estimate of the value of the house or buildings agreeably to the terms of the grant. The Engineer will be guided by his departmental rules in making the estimate, taking into consideration the valuation of the materials composing each building,* its state of repair, accommodation and general convenience. Should the rent charged be found to exceed fifteen per cent. of the *bona fide* value of the buildings, it shall be reduced to that standard. It is to be understood that this percentage includes the cost of all annual and necessary repairs, &c., which the house-owner is bound to make. The proceedings of the board and estimate of the Engineer will be forwarded through the chan-

* That is, value of materials and labour at the time such building was erected.

nel above prescribed to the Quartermaster General, and eventually, if necessary, to Government.

2005. In the event of the house-owner refusing to lower his rent according to the terms of his lease he will be liable to have it cancelled. Should he decline to make the repairs required, a house board will be assembled to decide upon what is really required and what expense is to be incurred; the house will be repaired agreeably to its decision and the *bona fide* cost deducted from the rent.

2006. In the case of parties possessing buildings on land for which no grant has been issued, the refusal of owners to act. above stipulations are equally binding; but, should they refuse to conform to them, they will be obliged to have the buildings removed from off the ground, within six months from the date of the receipt of the order to do so.

2007. No building of any kind is to be erected in a cantonment without the sanction of the Commander-in-chief, which must be applied for, through the station and divisional authorities, to the Quartermaster General. This applies to public departmental buildings as well as all others. Every application should state clearly the description and size of the building it is proposed to erect, and the purpose for which it is required, and should be accompanied by a sketch of the proposed site showing the buildings and roads, &c., in its immediate vicinity.

STATEMENT OF OBJECTS AND REASONS.

THE primary object of this Bill is to overcome the great and increasing difficulty which military officers experience in obtaining houses near their lines or other place of duty, or even within the limits of cantonments. This matter is dealt with in Chapter V of the Bill, which, while insisting generally on the prior claim of military officers to occupy houses in cantonments, specially provides that the claim is not to extend to houses which are occupied as banks or have been occupied for three years as hotels or shops, and that disputes respecting the amount of rent to be paid for houses claimed by military officers are to be settled by committees of arbitration in which the civilian element will be predominant if houseowners so desire. Such privileges with respect to residence in cantonments as members of the Civil Service and other civilians enjoy in some parts of India are to cease, the only houses which are not to be subject to the prior claim of military officers being those already mentioned and houses owned by or under the control of railway administrations or appropriated by the Government to the use of such officials as postmasters and telegraph-officers whose residence in cantonments is necessary for the public convenience.

Nearly all land occupied by houses in cantonments has been granted to houseowners, or their predecessors in interest, by the Government under the rules for the time being applicable to the cantonments and identical with or similar to those set forth in the second schedule to the Bill. Local Governments have been asked to state, for the purposes of Chapter V and section 35, what the exceptions, if any, are within the territories which they respectively administer.

2. Of the other portions of the Bill the following only appear to call for remark:—

(1) *Section 2.*—It is proposed to repeal all existing Cantonment Acts in force in British India and several obsolete enactments relating to cantonments and other military matters.

(2) *Section 3.*—The words "officer" and "soldier" are defined for the purposes of Chapters V and III, respectively; and the definition of the expression "spirituous liquor" is designed to remove difficulties which have arisen in the construction of that expression in existing enactments.

(3) *Sections 4-7.*—It is proposed that every cantonment be a subdivision of the district in which it is situated, and that the Subdivisional Magistrate be called the Cantonment Magistrate. If, as a Magistrate, the Cantonment Magistrate requires assistance, it can be given by the appointment of a Special Magistrate under section 14 of the Code of Criminal Procedure, 1882. If, as Judge of a Court of Small Causes, he requires assistance, it can be given to him under section 8 of the Provincial Small Cause Courts Act, 1887. Officers who are now invested with power to try breaches of rules, not as Magistrates but in pursuance of an order of the Local Government under section 28, Act III of 1880, section 20, Madras Act I of 1866, or section 12, Bombay Act III of 1867, must be appointed Special Magistrates and, as such, observe the few rules prescribed in Chapter XX of the Code of Criminal Procedure, 1882, for the trial of summons-cases.

(4) *Section 8.*—This section vests the administration of the cantonment police in the District Superintendent under the general control and direction of the District Magistrate. Commanding officers of cantonments are to be relieved of the duty, which is now unnecessarily imposed upon them, of serving processes issued by the Courts for execution in cantonments.

(5) *Sections 17-21.*—These sections give a legal status to cantonment funds and cantonment committees. The want of such a status has been a not infrequent cause of inconvenience.

(6) *Section 28.*—This section, which would make every cantonment a sub-district for the purposes of the Indian Registration Act, III of 1877, and the Cantonment Magistrate the Sub-Registrar of the sub-district, and require the provisions of the Transfer of Property Act, 1882, with respect to the registration of documents, to be observed in every cantonment, is designed to reduce the difficulties which now occur in the maintenance of registers of immoveable property in cantonments.

(7) *Section 29.*—Several of the powers which it is proposed to take for making rules are not given by enactments now in force.

The 12th October, 1888.

G. CHESNEY.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 12th October, 1888:

NO. 18 OF 1888.

A Bill to amend the Indian Marine Act, 1887.

WHEREAS it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows;

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, XIV of 1887, the following shall be substituted, namely:
Amendment of section 2, Act XIV of 1887.

"(2) The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression 'superior officer' in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force."

STATEMENT OF OBJECTS AND REASONS.

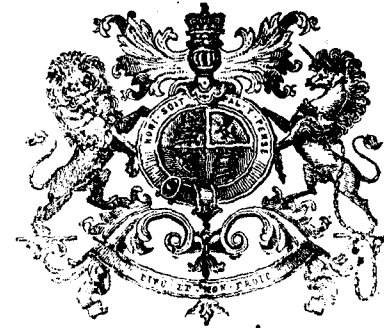
THE object of this Bill is to enable the Governor General in Council, as occasion may require, to vary the definitions of "gazetted officer", "warrant officer" and "petty officer" in clauses (b), (c) and (d) of section 2, sub-section (1), of the Indian Marine Act, 1887. Inconvenience has resulted from the present hard-and-fast rules with respect to the classification of officers of the lower grades of the Indian Marine Service.

The 12th October, 1888.

G. CHESNEY.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 20, 1888.

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

PART V.

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

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 18th October, 1888:

No. 19 OF 1888.

A Bill to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Merchandise Marks Act, Title, extent and commencement. 1889.

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of April, 1889.

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

(1) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

XLV of 1860.

[50 & 51 Vict., c. 28, s. 3 (1).]

(2) "trade description" means any description, statement or other indication, direct or indirect,—

(a) as to the number, quantity, measure, gauge or weight of any goods, or

(b) as to the place or country in which any goods were made or produced, or

(c) as to the mode of manufacturing or producing any goods, or

(d) as to the material of which any goods are composed, or

(e) as to any goods being the subject of an existing patent, privilege or copyright,

and the use of any figure, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act:

(3) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely:—

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

XLV of 1860.

"Of Trade and Property Marks."

"478. A mark used for denoting that goods have been made or manufactured by a particular person or at a particular time or place or that they are of a particular quality is called a trade mark, and for the purposes of this Code the expression "trade mark" includes any

Trade mark. [50 & 51 Vict., c. 28, s. 3 (2).]

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

[50 & 51 Vict., c. 28, s. 2 (3) Forfeiture of goods. Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.]

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) Nothing in sub-section (1) shall be construed to affect the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882.

(3) Courts in the exercise of their discretion with respect to the direction of forfeiture under this section shall observe any instructions which the Governor General in Council may issue for their guidance.

Amendment of the Sea Customs Act, 1878.

[50 & 51 Vict., c. 28, s. 16 (2).] Amendment of section 18, Act VIII of 1878. 10. For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

“(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889:

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trademark.”

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely:—

“19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor-General in Council may make, revoke and vary regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India.”

Supplemental Provisions.

12. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

[50 & 51 Vict., c. 28, s. 19.]

13. (1) This Act shall not exempt any person from any suit or other proceeding which might, but for the provisions of this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or

answer shall not be admissible in evidence against such person in any prosecution for an offence against this Act.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master.

STATEMENT OF OBJECTS AND REASONS.

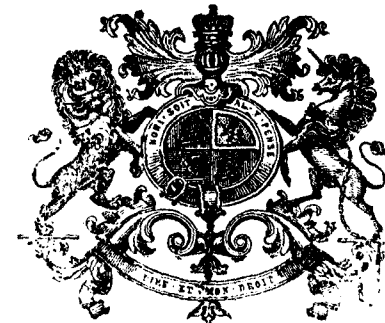
THE object of this Bill is to bring the law of India relating to fraudulent marks on merchandise into accord, as far as local circumstances admit, with the law of England as enacted in the Merchandise Marks Act, 1887. The Bill adopts the provisions of that Act with respect to false trade descriptions and recasts on the lines of that Act that part of the Indian Penal Code which relates to trade marks and property marks and that part of the Sea Customs Act, 1878, which relates to the prohibition of the importation into British India of goods bearing false descriptions or marks.

The 17th October, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 27, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888 :

NO. 20 OF 1888.

THE INDIAN RAILWAYS BILL.

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93. Penalty for omitting to give the notices of accidents required by section 82 and under section 83.
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CHAPTER X.

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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—ARTICLES TO BE DECLARED AND INSURED.

A Bill to consolidate, amend and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Railways Act, 1889. [Act IV, 1889, s. 1.]
Title, extent and commencement.

(2) It extends to the whole of British India and applies to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty without and beyond British India and those dominions; and

(3) It shall come into force on the first day of April, 1889.

2. (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof. [Act IV, 1879, s. 2.]

(2) But all rules, declarations and appointments made, forms approved, powers conferred, directions given and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, approved, conferred, given and published under this Act.

The Indian Railways Bill.

(Chapter I.—Preliminary.—Section 3. Chapter II.—Inspection of Railways.—Sections 4-6.)

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

[Act IV, 1879, s. 3.] 3. In this Act, unless there is something repugnant in the subject or context,—

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways;

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry;

[Twelfth Annual Report, Railways Commr., p. 4.] (3) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway;

(c) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with a railway; and

[C. B. No. 6377 of 1881: U. O. Reg. No. 86 of 1885: Pros., Act IV, 1879, p. 45.] (d) all ferries, ships, boats and rafts which are used on rivers or other inland waters for the purposes of the traffic of a railway and are under the direct control of the authority administering the railway;

[34 & 35 Vict., c. 78, s. 2.] (4) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway;

[Act IV, 1879, s. 3: Chapter VII of this Bill.] (5) "railway administration" or "administration", in the case of a railway administered by the Government or a Native State, means the Manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company;

[Act IV, 1879, s. 3.] (6) "railway servant" means any person employed by a railway administration in connection with the service of a railway;

[New.] (7) "Inspector" means an Inspector of Railways appointed under this Act;

[Cf. 8 Vict., c. 20, s. 3.] (8) "goods" includes inanimate things of every kind;

[35 & 36 Vict., c. 50, s. 2.] (9) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trolleys of all kinds;

[17 & 18 Vict., c. 31, s. 1.] (10) "traffic" includes rolling-stock of every description as well as passengers, animals and goods;

[New.] (11) "through traffic" means traffic which is carried over the railways of two or more railway administrations;

[8 Vict., c. 20, s. 3.] (12) "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods;

[31 & 32 Vict., c. 35, s. 55.] (13) "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat;

(14) "pass" means an authority given [New.] by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorising the person to whom it is given to travel as a passenger on a railway gratuitously;

(15) "ticket" includes a single ticket, a return ticket and a season ticket; and

(16) "cattle" includes elephants, camels, [Act I, 1871, s. 3.] buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

CHAPTER II.

INSPECTION OF RAILWAYS.

4. (1) The Governor General in Council may [34 & 35 Vict., c. 78, s. 3.] Appointment and appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

(2) The duties of an Inspector of Railways shall be—

(a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor General in Council as required by this Act;

(b) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct;

(c) to make inquiry under this Act into the cause of any accident on a railway;

(d) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

5. An Inspector shall, for the purpose of any [Act IV, 1888, s. 2: 34 & 35 Vict., c. 78, s. 4.] of the duties which he is required or authorised to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor General in Council, shall for that purpose have the following powers, namely:—

(a) to enter upon and inspect any railway or any rolling-stock used thereon;

(b) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

6. A railway administration shall afford to the [Act IV, 1888, s. 2.] facilities to be afforded to Inspectors. Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

The Indian Railways Bill.

(Chapter III.—Construction and Maintenance of Works.—Sections 7-11.)

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

[8 Vict., c. 20, s. 16.] 7. Subject to the provisions of this Act and of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and, subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

Authority of railway administrations to execute all necessary works. (a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(b) alter the course of any rivers, brooks, streams or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or watercourses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper;

(c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(d) erect and construct such houses, warehouses, offices and other buildings, yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;

(e) alter, repair or discontinue such works as aforesaid or any of them, and substitute others in their stead; and

(f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

[XIII, 15, s. 14.]

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas or water or the position of any drain not being a main drain:

Provided that—

(a) when the railway administration desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe or drain, or, when the pipe or drain is not under the control of a local authority or company, to the person under whose control the pipe or drain is;

(b) a local authority, company or person receiving notice under proviso (a) may send

a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent.

9. (1) The Governor General in Council may [5 & 6 Vict., c. 55, s. 14.] Temporary entry upon land for repairing or preventing accident. authorise any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this subsection shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. A railway administration shall do as little [Pros., P.W. damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and such compensation shall be paid to persons affected by the exercise thereof as may be agreed upon or as, in case of dispute, may be awarded under the Land-acquisition Act, 1870, or settled according to the procedure prescribed in that Act for the settlement of cases of disputed compensation.]

11. (1) A railway administration shall make [8 Vict., c. 20, s. 68.] Accommodation works. and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

(a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(b) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) The works specified in clauses (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

*The Indian Railways Bill.**(Chapter III.—Construction and Maintenance of Works.—Sections 12-15.)*

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

- (i) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made;

[8 Vict., c. 20, s. 73.]

- (ii) save as hereinafter in this Chapter provided, a railway administration shall not be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

[Suggested at Railway Conference, 1888.]

- (iii) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

[8 Vict., c. 20, s. 70.]

(4) The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and, if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

[8 Vict., c. 20, s. 71.]

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, he may at any time require the railway administration to make at his expense such further works for that purpose as he thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorised by the Governor General in Council.

[Act IV, 1879, s. 52; 5 & 6 Vict., c. 55, s. 10; and bars. U. O. Register No. 2360 of time as he may appoint in this behalf,—1861; and Proc. P.W.D., May, 1866, Nos. 12 to 17; January, 1868, Nos. 62 to 64; Despatch, para. 23, Oct., 1869, Nos. 318 to 343; and June, 1874, Nos. 11 and 12.]

13. The Governor General in Council may require that, within a time to be specified in the requisition or within such further

[8 Vict., c. 20, s. 68.]

- (a) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

danger to passengers on the road by reason of horses being frightened by the sight or noise of the rolling-stock moving on the railway;

- (c) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;

- (d) persons be employed by a railway administration to open and shut such gates, chains or bars.

14. (1) Where a railway administration has constructed a railway across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2) The Governor General in Council may require, as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just.

[8 Vict., c. 20, s. 46; 51 & 52 Vict., c. 25, s. 16; and 36 W. R. 491.]

15. (1) In either of the following cases, namely:—

- (a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

- (b) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall be final.

*The Indian Railways Bill.**(Chapter IV.—Opening of Railways.—Sections 16-23.)*

CHAPTER IV.

OPENING OF RAILWAYS.

[Act IV, 1879, s. 4; 8 Vict., c. 20, s. 86; and K. W. Progs., A., March, 1883, No. 182.]

16. (1) A railway administration may, with the previous sanction of the Governor General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

[New: U. O. Regr. No. 1622 of 1878, and K. W. Progs., A., April, 1879, Nos. 39-113.]

(2) But rolling-stock shall not be moved upon a railway by steam or other mechanical power until general rules for the railway have been made, sanctioned, published and notified under this Act.

[Act IV, 1883, s. 2; and K. W. Progs., A., March, 1883, No. 182.]

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

(2) The Governor General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

[Act IV, 1883, s. 2; and Proc. P. W. D., Jan., 1868, Nos. 60 to 64; E. I. R. 29-32.]

18. A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

[Act IV, 1883, s. 2.]

19. (1) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor General in Council—

- (a) that he has made a careful inspection of the railway and rolling-stock;

- (b) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed;

[5 & 6 Vict., c. 55, s. 16.]

- (c) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are in accordance with the standards prescribed by the Governor General in Council;

- (d) that the railway is sufficiently supplied with rolling-stock;

- (e) that general rules for the working of the railway have been made, sanctioned, published and notified under this Act; and

- (f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

[5 & 6 Vict., c. 55, s. 6.]

(2) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall

direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

20. (1) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

(3) When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

[New.]

(a) that the railway servant in charge of the works undertaken by reason of the accident has recorded an opinion that the opening of the restored line and works, or of the temporary diversion, will not be attended with danger to the public using the line and works or the diversion; and

(b) that notice by telegraph of the opening of the line and works or the diversion shall be sent to the Inspector appointed for the railway.

22. The Governor General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council;

[Act IV, 1883, s. 2.]

(2) Power to close an opened railway.

*The Indian Railways Bill.**(Chapter IV.—Opening of Railways.—Sections 24-25. Chapter V.—Railway Commissions and Traffic Facilities.—Sections 26-31.)*

and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers only on such conditions as the Governor General in Council may consider necessary for the safety of the public.

[5 & 6 Vict., c. 55, s. 6.] (2) An order under the last foregoing subsection must set forth the grounds on which it is founded.

[Act IV, 1888, s. 2.] 24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned, in accordance with the provisions of this Act.

[Act IV, 1888, s. 2.] (2) When the Governor General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

(3) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor General in Council.

[Act IV, 1879, s. 5B (2).] 25. (1) The Governor General in Council may, by general or special order, under this Chapter, authorise the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

[17 & 18 Vict., c. 31, s. 1.] 26. (1) For the purposes of this Chapter the Governor General in Council shall, as occasion may in his opinion require, appoint a commission, styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints.

[17 & 18 Vict., c. 31, s. 1.] (3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, Chapter 104, the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior

Judge or, in the case of the Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

28. In any of the following circumstances, namely:—

(a) where complaint is made to the Governor General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter;

(b) where any difference referable to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners;

(c) where any other difference to which a railway administration is a party arises, and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners;

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

30. (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by the High Court of which the Law Commissioner is a member, and they or the majority of them may make any order in the case, by way of injunction, which may in the circumstances appear to them to be suitable.

(2) At the hearing the Commissioners may permit any person to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(b) in any other case, to the High Court of which the Law Commissioner was a member.

*The Indian Railways Bill.**(Chapter V.—Railway Commissions and Traffic Facilities.—Sections 32-41.)*

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

[See section 40 of this Bill, which practically precludes re-mand.] XIV of 1882. (4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

32. Notwithstanding any appeal to the High Court from an order of the Railway Commission, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

33. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

34. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct.

35. The Governor General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

36. The costs of, and incidental to, any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be.

37. The High Court of which the Law Commissioner was a member shall, on the application of any person who was a party to the proceedings before the Commissioners or on appeal before a High Court, or of the representative of any such person, cause an order made by the Commissioners or by a High Court under this Chapter to be enforced or executed as if it were an order made by itself in the exercise of its original civil jurisdiction.

38. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

39. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

40. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them.

Traffic Facilities.

41. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any such respect.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates:

Provided as follows:—

(a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and the route by which the traffic is proposed to be forwarded; and when an administration gives such notice it shall also state the apportionment of the through rate. The proposed through rate may be per truck or per maund;

(b) each forwarding railway administration shall, within the prescribed period after

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the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate and route, and, if it objects to either, the grounds of the objection;

(c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period;

(d) if an objection to the rate or route has been sent within the prescribed period, the Governor General in Council shall, on the request of any of the railway administrations, refer the case to the Commissioners for their decision;

(e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;

(f) if the objection is only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective: in any other case the operation of the rate shall be suspended until the Commissioners make their order in the case;

(g) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;

[36 & 37 Vict., c. 48, s. 12.] (h) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;

(i) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

[51 & 52 Vict., c. 25, s. 27.] 42. (1) Whenever it is shown that a railway administration charges one trader or class of traders, or the traders in any district or country, lower rates for the same or similar merchandise, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another district or country, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

43. Where a railway administration is a party to an agreement for using on a river or other inland water for the purposes of the traffic of the railway any ferry, ship, boat or raft which is not under the direct control of the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft and to the traffic carried thereby.

44. A railway administration may charge reasonable terminals. [New.]

45. (1) The Governor General in Council may refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) In deciding the question or dispute the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

46. (1) A railway administration shall keep at each of its stations a book or books showing every rate for the time being charged for the carriage of traffic, other than passengers and their luggage, from that station to any place to which the administration quotes a rate, and stating the distance from that station of every station, siding or place to which any such rate is charged.

(2) Every such book shall during all reasonable hours be open to the inspection of any person without payment of any fee.

47. (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely:—

- the carriage of the goods on the railway;
- terminals; and
- demurrage, collection, delivery and other expenses;

but without particularising the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the

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[The periods mentioned in the sub-section (2) are those suggested at the Railway Conference, 1888.] applicant, and the account must be rendered by the administration within two months after the receipt of the application.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

[Act IV, 1879, s. 8; 3 & 4 Vict., c. 97, ss. 7, 8 & 9; and 8 Vict., c. 20, s. 108.] 48. (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely:—

- for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;
- for regulating the provision to be made for the accommodation and convenience of passengers;
- for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;
- for regulating the conduct of the railway servants;
- for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner; and
- generally for regulating the travelling upon, and the use, working and management of, the railway.

[Act IV, 1879, s. 8.] (2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees.

[Act IV, 1879, s. 8.] (3) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India:

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

[Act IV, 1879, s. 8.] (4) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may, at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.

[Unofficial Reg. No. 414 of 1887.] IV of 1879. (5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879, and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

[New.] (6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force on the railway under this section, and shall allow any person to inspect it free of charge at all reasonable times.

49. Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

50. Any railway company, not being a guaranteed company within the meaning of the Statute 42 and 43 Victoria, Chapter 41, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

51. Any railway company, not being a guaranteed company within the meaning of the Statute 42 and 43 Victoria, Chapter 41, may from time to time make with the Governor General in Council, and carry into effect, or, with the sanction of the Governor General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely:—

- the working, use, management and maintenance of any railway;
- the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of any such railway;
- the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance;
- the interchange, accommodation and conveyance of traffic being on, coming from or destined for the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic;
- generally, the giving effect to any such provisions or stipulations with respect to any of the purposes mentioned in clause (a) as the contracting parties may think fit and mutually agree on:

Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are from time to time respectively authorised to demand and receive from any person, and that every such person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

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[42 & 43 Vict., c. 41, s. 4.]

52. Any railway company, not being a guaranteed company within the meaning of the Statute 42 and 43 Victoria, Chapter 41, may from time to time exercise with the sanction of the Governor General in Council all or any of the following powers, namely:—

- it may establish, for the accommodation of the traffic of its railway, any ferry properly equipped with ships and boats or a bridge-of-boats and fixed and moveable machinery and plant of good quality and adequate in quantity to work the ferry;
- it may work any ferry established by it under this section for purposes other than the accommodation of the traffic of the railway;
- it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic;
- it may construct and maintain roads for the accommodation of traffic passing to or from its railway;
- it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway;
- it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

[8 & 4 Vict., c. 97, s. 3; 31 & 32 Vict., c. 119, ss. 3 & 4; and 34 & 35 Vict., c. 78, ss. 9 & 14.]

53. Every railway administration shall, in forms to be prescribed by the Governor General in Council, prepare and print, half-yearly or at such longer intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct.

Carriage of Property.

[8 & 6 Vict., c. 35, s. 16.]

54. (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck.

[New.]

55. (1) A railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1)

at the station, and shall allow any person to inspect it free of charge at all reasonable times.

56. (1) If a person fails to pay on demand any rate, terminal or other charge due from him to a railway administration in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of the last foregoing sub-section.

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

57. When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed within a reasonable time by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration may sell them as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

58. If the railway administration has any doubt as to the person entitled to any animals, goods or sale-proceeds under either of the two last foregoing sections, it may withhold delivery thereof until the person claiming them has established his title thereto in a Civil Court.

59. Where any animals or goods in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given therefor is not forthcoming, the railway administration may withhold delivery thereof until the person claiming them has established his title thereto in a Civil Court.

*The Indian Railways Bill.**(Chapter VI.—Working of Railways.—Sections 60-66.)*

animals or goods until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals or goods.

[Act IV, 1897, s. 15.]

60. (1) The owner or person having charge of any goods which have been carried upon a railway, or are brought upon a railway for the purpose of being carried thereon, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to him an exact account in writing signed by such owner or person of the quantity and description of the goods.

(2) If an account delivered under sub-section (1) is materially false with respect to the quantity or description of any goods to which it purports to relate, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

[8 Vict., c. 20, s. 101.]

(3) If any difference arises between a railway servant and an owner of or a person having the charge of any goods carried or to be carried on a railway, respecting the quantity or description of goods of which an account has been required or delivered under this section, the railway servant may detain and examine the goods.

(4) If an account has not been delivered under sub-section (1) on request made therefor under that sub-section, the person to whom the request was addressed or, if that person is not the owner of the goods, then that person and the owner jointly and severally shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination.

(5) If it appears from the examination that the quantity of the goods is larger than, or their description different from, that stated in an account delivered under sub-section (1), the person who delivered the account or, if that person is not the owner of the goods, then that person and the owner jointly and severally shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any such loss as aforesaid.

(6) If it appears that the quantity of the goods is not larger than, or their description not different from, that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination and be responsible to the owner of the goods for any loss which may have been caused by the detention or examination thereof.

[Act IV, 1879, s. 16; Act XI, 1886, s. 16; and Despatch from Secretary of State to Government of India, No. 95, dated 18th July, 1882.]

61. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the stationmaster or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside

of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in the last foregoing sub-section having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such.

Carriage of Passengers.

62. The Governor General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor General in Council has approved.

63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers for each compartment. The maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor General in Council, after consultation with the railway administration, may determine.

64. Every railway administration shall in every passenger-train reserve at least one compartment of the lowest class for the exclusive use of females.

65. Every railway administration shall cause to be posted in a conspicuous place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situated, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with

*The Indian Railways Bill.**(Chapter VI.—Working of Railways.—Sections 67-71. Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 72-75.)*

a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

- (a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and
- (b) if the class of carriage to be so specified is any other than the lowest class, then in English.

[Act IV, 1879, s. 18.] 67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

Provision for case in which tickets have been issued for trains not having room available for additional passengers.

[New.] (2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within an hour after the departure of the train be entitled to have his fare at once refunded.

[Act IV, 1879, s. 19.] 68. No person shall enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him either a pass or a ticket.

Prohibition against travelling without pass or ticket.

[Act IV, 1879, s. 17.] 69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at the end of the journey for which the pass or ticket was issued or, in the case of a season pass or ticket, at the expiration of the period for which it is current deliver up the pass or ticket to the railway servant.

Exhibition and surrender of passes and tickets.

[English Bye-law No. 5: & U.O. Reg. No. 852 of 1876.] 70. A return ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Return tickets.

[Act IV, 1879, s. 20: and English Bye-law No. 16.] 71. (1) A railway administration may refuse to carry a person suffering from any infectious disorder.

Power to remove persons suffering from infectious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

[New.] (3) A railway servant giving such permission as is mentioned in the last foregoing sub-section must arrange for the segregation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

[Act IV, 1879, s. 10: I. L. R. 3 Bom. 109 and 10 Cal. 166: and U.O. Reg. No. 263 of 1879.] 72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

provisions of this Act, be that of a bailee under Chapter IX of the Indian Contract Act, 1872.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to affect such limitation, be void unless it—

- (a) is in writing signed by or on behalf of the person sending or delivering the animals or goods, and
- (b) is otherwise in a form approved by the Governor General in Council.

(3) Nothing in the common law of England or in the Carriers Act, 1865, with respect to the carriage of animals or goods, shall apply to their carriage by railway.

73. (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses five hundred rupees a head or, in the case of camels or horned cattle, fifty rupees a head or, in the case of sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared, or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

Further provision with respect to the liability of a railway administration as a carrier of animals.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal the burden of proving the value of the animal and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

[Act IV, 1879, s. 12: L. R. 6 C. P. 44.] 74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt for the luggage and the passenger has left the luggage to be carried by the railway administration in a wagon or other place appropriated for the carriage of luggage or of luggage and other goods.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

75. (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and a railway servant on behalf of the administration has accepted a percentage on the value so declared by way of compensation for increased risk, or an engagement to pay such percentage.

[Act IV, 1879, s. 11: I. L. R. 4 Mad. 310, and 5 Mad. 208.]

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(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall lie on the person claiming the compensation.

[Act IV, 1879, s. 13.] 76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway servant for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Burden of proof in suits in respect of loss of animals or goods.

[New: U. O. Registrar No. 3474 of 1882.] 77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Notification of claims to refunds of overcharges and to compensation for losses.

[New: I. L. R. 3 Bom. 120.] 78. Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the quantity or description of which an account materially false has been delivered under sub-section (1) of section 60 and in respect of the carriage of which a special rate has not been charged under sub-section (2) of that section.

Exoneration from responsibility in case of goods falsely described.

[Secy. of State's Despatch, Railway, No. 4, dated the 5th January, 1888.] 79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to the Government, loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier or follower being or travelling as such on duty upon the railway compensation would be payable under Act No. XIII of 1855 (an Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong) or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death or is subject, be determined in accordance with those regulations, and not otherwise.

Settlement of compensation for injuries to officers, soldiers and followers on duty.

[Proc., P. W. D., July, 1887, Nos. 1 to 141, No. 69: I. L. R. 5 Bom. 371.] 80. A suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods, where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, shall lie against the railway administration from which the passenger purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be.

Suits for compensation for injury to through-booked traffic.

81. (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

Limitation of liability of railway administrations in respect of accidents at sea.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

82. When any of the following accidents occurs in the course of working a railway, namely:—

- (a) any accident attended with loss of human life, or grievous hurt as defined in the Indian Penal Code, or serious injury to property;
- (b) any collision between trains of which one is a passenger-train;
- (c) the derailment of any train carrying passengers or of any part of such a train;
- (d) any accident of a description usually attended with loss of human life or such grievous hurt as aforesaid or serious injury to property;
- (e) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector appointed for the railway; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor General in Council appoints in this behalf.

[Proc., P. W. D., January, 1888, Nos. 62 to 64, para. 28.]

*The Indian Railways Bill.**(Chapter VIII.—Accidents.—Sections 83-85. Chapter IX.—Penalties and Offences.—Sections 86-94.)*

[New.]

83. The Governor General in Council may make rules, consistent with this Act and any other enactment for the time being in force, for any of the following purposes, namely:—

- (a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those forms are to contain;
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;
- (c) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

[Act IV, 1879, s. 7.] 84. Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor General in Council directs.

[31 & 32 Vict., s. 119, s. 26.] 85. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

[Act IV, 1879, s. 63.] 86. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

[Pros., P. W. D., January, 1868, Nos. 60 to 64, E. I. R., 34-36.]

[Act IV, 1883, s. 4.] 87. If a railway company moves any rolling-stock upon a railway by steam or other mechanical power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

[Pros., P. W. D., January, 1868, Nos. 60 to 64, De. patch, para. 21.] 88. If a railway company fails to comply with the provisions of section 46, section 48, sub-section (6), section 53, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to

the Government the sum of fifty rupees for every day during which the default continues.

89. If a railway company fails to comply with the provisions of section 48 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

90. If a railway company fails to comply with the provisions of section 53 or section 84 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

91. If a railway company contravenes the provisions of section 54 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

92. If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

93. If a railway company omits to give such notice of an accident as is required by section 82 and the rules for the time being in force under section 83, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

94. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

*The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 95-107.)*

{New.]

95. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.

Offences by Railway Servants.

[Act IV, 1879, s. 25: and 5 & 6 Vict., c. 55, s. 17.]

96. If a railway servant—

(a) is in a state of intoxication whilst actually employed upon a railway in the discharge of any duty, or

(b) negligently or wilfully omits to perform his duty,

he shall, on complaint made by the railway administration or by a railway servant appointed by the railway administration in this behalf, be punished with fine which may extend to fifty rupees.

[Act IV, 1879, s. 26: 3 & 4 Vict., c. 97, ss. 13 & 14: and 5 & 6 Vict., c. 55, s. 17.]

97. If a railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any general rule made, sanctioned, published and notified under this Act, or

(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(c) by any rash or negligent act or omission, he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

[Act IV, 1879, s. 28.]

98. If a railway servant compels or attempts to compel any passenger to enter a compartment which already contains the maximum number of passengers exhibited thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

[Act IV, 1879, s. 24.]

99. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 82 and the rules for the time being in force under section 83, he shall be punished with fine which may extend to fifty rupees.

[26 & 27 Vict., c. 92, s. 5.]

100. If a railway servant without lawful excuse allows any rolling-stock to stand across a place where the railway crosses a public road on the level, he shall be punished with fine which may extend to twenty rupees.

[34 & 35 Vict., c. 78, s. 10.]

101. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

102. If a person requested under section 60 [Act IV, 1879, s. 29: 8 Vict., c. 59.] Not giving account to give an account of the quantity and description of any goods neglects or refuses to give the account, or gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund (of three thousand two hundred tolas) of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

103. If a person in contravention of section 61 [Act IV, 1879, s. 30: 8 Vict., c. 59.] Unlawfully bringing takes with him any dangerous or offensive goods upon a railway, way, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

104. If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

105. (1) If a passenger, having entered a compartment already full or resisting entry into a compartment not full, [Act IV, 1879, s. 31: 8 Vict., c. 59.] taining the maximum number of passengers exhibited thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to ten rupees.

(2) If any person resists the lawful entry of any other person into a compartment not already containing the maximum number of passengers exhibited thereon under section 63, he shall be punished with fine which may extend to fifty rupees.

106. (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling and from the railway.

(3) Where a person is removed from the railway under the last foregoing sub-section, he shall forfeit any fare which he has paid and any pass or ticket which he has obtained or purchased.

107. If a person, without authority in this behalf, pulls down or injures any board or document set up or posted on a railway by order of a railway administration, or obliterates any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

*The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 108-115.)*

[Act IV, 1879, ss. 31 & 32: L. R. 1 Bom. 52 and 12 Cal. 192: and French and German Rail-way Law.]

108. (1) If a passenger travels in a train without having a pass or ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the penalty hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorised by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the penalty hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The penalty referred to in sub-section (1) and sub-section (2) shall,—

(a) where the passenger has immediately after incurring the penalty and before being detected by a railway servant notified to the railway servant in charge of the train the fact of the penalty having been incurred, be one rupee, two annas or eight annas, and

(b) in any other case, be six rupees, one rupee or three rupees,

according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind.

(4) If a passenger liable to pay the penalty and fare mentioned in sub-section (1), or the penalty and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, he may, if in the train, be removed therefrom, and the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

[English Bye-law No. 2: Act IV, 1879, s. 33.]

109. If a person uses or attempts to use a pass or ticket on any day for which the pass or ticket is not available, or uses or attempts to use a single pass or ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used, he shall be punished with fine which may extend to one hundred rupees,

in addition to the amount of the single fare for any distance which he has travelled.

110. If a person sells or attempts to sell, or transfers or attempts to transfer, any part of a return ticket, with the possession of, the return half of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket or travels or attempts to travel therewith, he shall be punished with fine which may extend to fifty rupees, in addition to the amount of the single fare for the return journey authorised by the ticket.

111. That portion of any fine imposed under either of the two last foregoing sections, which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

112. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

113. If a person suffering from an infectious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

114. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

115. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed by any railway servant from the place and from the railway.

*The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 116-124.)*

[Act IV, 1879, s. 36.]

Drunkenness or nuisance on a railway.

116. If a person in any railway carriage or upon any part of a railway—

- (a) is in a state of intoxication, or
- (b) commits any nuisance or act of indecency, or uses obscene or abusive language, or
- (c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed by any railway servant from the railway.

[Act IV, 1879, s. 38: & 3 & 4 Vict., c. 97, s. 16.]

117. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

[Act IV, 1879, s. 41: & 3 & 4 Vict., c. 97, s. 16: U. O. Reg. No. 899 of 1883: & P. W. D. January, 1888, Nos. 60 to 64, Despatch, para. 16.]

118. (1) If a person wilfully trespasses upon a railway, he shall be punished with fine which may extend to twenty rupees.

(2) If a person so trespassing refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

[Act IV, 1879, s. 47.]

119. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the rails of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

[Act IV, 1879, s. 48: & 8 Vict., c. 20, s. 75.]

120. In either of the following cases, namely:—

- (a) if a person, knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal or other thing across the railway,
- (b) if, in the absence of a gatekeeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any vehicle, animal or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

[Act IV, 1879, s. 42.]

121. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on a railway provided with fences suitable for the exclusion of cattle, or are wilfully driven, or knowingly permitted to be, on a railway not so provided otherwise than for the purpose of lawfully crossing the railway at an

authorised crossing or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) If the Governor General in Council has, by notification in the Gazette of India, declared, with respect to any railway, that it is provided with fences suitable for the exclusion of cattle, a Court shall, so long as the declaration remains uncancelled, presume the suitability for that purpose of the fences referred to in the declaration.

122. If a person unlawfully and maliciously—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
- (b) takes up, removes or displaces any rail, sleeper or other matter or thing belonging to any railway, or
- (c) turns, moves or diverts any points or other machinery belonging to any railway, or
- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- (e) does or causes to be done any other matter or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or for any term not less than seven years, or with imprisonment for a term which may extend to two years.

123. If a person unlawfully and maliciously throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or for any term not less than seven years, or with imprisonment for a term which may extend to two years.

124. If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

*The Indian Railways Bill.**The Indian Railways Bill.**(Chapter IX.—Penalties and Offences.—Sections 125-130. Chapter X.—Supplemental Provisions.—Sections 131-132.)**(Chapter X.—Supplemental Provisions.—Sections 133-140.)*

[Act IV, 1879, s. 46.] 125. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

[Act IV, 1879, s. 44.] 126. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed to have committed an offence, and the Court convicting him may, if it thinks fit, in addition to any punishment to which it may sentence the minor, require his father or guardian, within such time as the Court may fix, to execute a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine.

Procedure.

[Act IV, 1879, s. 49; U. O. Register No. 1880 of 1880; Pros. P. W. D., Jan., 1880, Nos. 60 to 64. R. I. R. 12, 20 & 25.] 127. (1) If a person contravenes a general rule the breach whereof has been made punishable with fine under section 48, sub-section (2), or commits any offence mentioned in section 96, 97, 115, 116, 117, 122, 123, 124, 125 or 126, he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, without unnecessary delay, be taken before a Magistrate having authority to try him or commit him for trial.

[Act IV, 1879, s. 49; and 8 Vict., c. 16, s. 156.] 128. (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or incurs any penalty or other liability under section 108, and there is reason to believe that he will abscond, or his name and address are unknown and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him and take him with all convenient despatch to the nearest police-station.

(2) When the person is taken to the police-station he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction, unless his true name and address are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate when required.

129. No Magistrate other than a Presidency Magistrate or than a Magistrate having jurisdiction under Act. 1879, s. 50.] Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

130. (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be found or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

131. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely:—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in Council has, by an order in writing, declared the railway administration to be liable to pay the tax.

(2) While an order made by the Governor General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the order or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor General in Council may at any time revoke or vary an order under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

132. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to

be taken in execution of any decree or order of any Court without the previous sanction of the Governor General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

[Act IV, 1879, s. 27; Pros. Foreign Dept., Ext., Nov., 1887, Nos. 145 to 158.] 133. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 56 or section 57, or,

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

[8 Vict., c. 20 s. 106.] 134. If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building, with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

[Railway and Canal Traffic Bill, 1887, s. 44; and 51 & 52 Vict., c. 25, s. 53.] 135. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to the Government of India, or by any other officer or servant authorised to act on behalf of the Governor General in Council in respect of the matters to which the same may

relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

136. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(a) by delivering the notice or other document to the Manager or Agent, or

(b) by leaving it at his office, or

(c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the Indian Post Office Act, 1866.

137. Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

(a) by delivering it to the person, or

(b) by leaving it at the usual or last known place of abode of the person, or

(c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the Indian Post Office Act, 1866.

138. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

139. (1) A rule under section 22, section 35 or section 83, or the cancellation, rescission or variation of a rule under any of those sections or under section 48, sub-section (4), shall not take effect until it has been published in the Gazette of India.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

(3) The Governor General in Council may cancel or vary any rule made by him under this Act.

140. (1) The Governor General in Council may, by notification in the Gazette of India, invest any Local Government with any of the powers or functions of the

*The Indian Railways Bill.**(Chapter X.—Supplemental Provisions.—Sections 141-145.**The First Schedule.—Enactments repealed. The Second Schedule.—Articles to be declared and insured.)*

the Governor General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(2) The provisions of section 135 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (1).

[New.]

141. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorise any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(2) A person authorised by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, as regards such prosecutions, be deemed to be a Public Prosecutor for the purpose of section 495 of the Code of Criminal Procedure, 1882.

X of 1882.

[Act IV, 1879, s. 54 and Act XI, 1886, s. 49.]

142. The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

[Act XI, 1887.]

143. The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.

[Act IV, 1879, s. 3. U.O. Reg. No. 1882 of 1878.]

144. (1) For the purposes of section 3, sub-sections (4) and (5), and sections 4 to 19 (both inclusive), 48, 53, 61, 79, 82 to 85 (both inclusive), 90, 93 to 97 (both inclusive), 99, 103, 107, 114, 118, 120 to 128 (both inclusive), 136, 137, 140, 141 and 143, the word "railway", whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, sub-section (2).

(2) For the purposes of sections 82, 96, 97, 99, 117, 118, 121 and 133, sub-sections (1), (2) and (4), and section 134, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

145. In sections 194 and 195 of the Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
III of 1865.	Carriers Act, 1865.	Section 10.
IV of 1879.	Indian Railway Act, 1879.	The whole.
IV of 1883.	Indian Railway Act, 1883.	The whole.
XI of 1886.	Indian Tramways Act, 1886.	Section 49.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>		
II of 1882.	Bengal Embankment Act, 1882.	Section 16, and in section 17 the proviso to the first paragraph of that section and the words "or railroad" wherever they occur.

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See section 75.)

- gold and silver, coined or uncoined, manufactured or unmanufactured;
- plated articles;
- cloths and tissue and lace of which gold or silver forms part, not being the uniform of part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform;
- precious stones, jewellery and trinkets;
- watches, clocks and timepieces of any description;
- Government securities;
- Government stamps;
- bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money;
- maps, writings and title-deeds;
- paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art;
- art pottery and all articles made of glass, china or marble;
- silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
- shawls;
- lace and furs;
- opium;
- ivory, ebony, coral and sandalwood;
- musk, sandalwood-oil and other essential oils used in the preparation of *str* or other perfume;
- musical and scientific instruments.

[Act IV, 1879, Sch. II.]

[K. W. No. 4, Proc. A. Mar. 1883, Nos. 1 to 82, Leg. Dept.]

XX of 1889.

[4 Bom. H. C. R. O. C. J. 129: I. L. R. 6 Mad. 420.]

[Addition of "coral" and "essential oils" used in the preparation of *str* or other perfume; Railway Conference, 1884.]

STATEMENT OF OBJECTS AND REASONS.

The preparation of an Indian Railway Code consistent, so far as public interests permit, with the letter of the contracts subsisting between the Government and railway companies has been under consideration for many years, and the Indian Railways Bill has been drawn with special reference to the objections to which the drafts prepared in 1866 and in 1884 were considered both in India and in England to be open.

2. The references in the margin indicate generally the documents which have been considered in the preparation of the Bill. But some of those documents are not accessible to the public, and partly for this reason, and partly for the purpose of explaining the changes which it is proposed to introduce into the law relating to railways in India, the following portions of the Bill appear to call for special remark:—

(1) *Section 2, sub-section (1).*—Among the enactments to be repealed are section 10 of the Carriers Act, 1865, which was superseded by the last paragraph of section 2 of the Indian Railway Act, 1879, and will be rendered unnecessary by section 72, sub-section (3), of the Bill. As regards section 16 of the Bengal Embankment Act, 1882, it is considered that the retention by the Collector of the power conferred upon him by that section will be undesirable if sections 11 and 12 of the Bill become law. Section 3, sub-section (1), and section 142 of the Bill take the place of section 54, Act IV of 1879, and section 49, Act XI of 1886.

(2) *Section 3, clause (3), sub-clause (d).*—Sub-clause (d) of the definition of "railway" has been restricted to such vessels as are used on rivers and other inland waters within the local extent of the Act. It has been held that the corresponding clause in Act IV of 1879 must be read in this restricted sense, as, apart from the local extent of that Act, a wider construction of the clause might bring the Railways Act into collision with the Merchant Shipping Acts and the provisions of the general law relating to the carriage of passengers and goods by sea.

(3) *Section 3, clauses (3) and (6).*—These clauses are supplemented by sub-section (1) of section 144, which applies certain portions of the proposed Act to railways under construction and to railways not used for the public carriage of passengers, animals or goods, and by sub-section (2) of the same section, which declares the expression "railway servant" in certain sections of the Act to include the servants of railway contractors.

(4) *Section 3, clause (5).*—For the purposes of Chapter VII of the Bill, relating to the responsibility of railway administrations as carriers, it is proper to define the expression "railway administration", in the case of a railway administered by the Government or a Native State, to include the Government or State, as the case may be.

(5) *Section 3, clause (13), and sections 44 et seqq.*—These provisions are in the terms of sections 55 and 24, respectively, of the Railway and Canal Traffic Act, 1888.

(6) *Section 5, clause (c).*—In accordance with a suggestion made by one of the railway companies with reference to the draft Bill of 1884, communications between railway companies and their legal advisers have been expressly excepted from the documents of which an Inspector of Railways may require the production.

(7) *Section 7.*—This section follows generally the terms of an English enactment, but supersedes any local enactments which prohibit the construction of railways over gas-pipes and the like without the previous permission of municipal commissioners. The expense of diverting the course of a railway for the purpose of avoiding a gas-pipe would usually be out of all proportion to any damage which might possibly be caused by the railway passing over the pipe.

(8) *Section 8.*—This section confers on railway administrations a power which the telegraph authority has under the Indian Telegraph Act, 1885.

(9) *Sections 11 and 12.*—The former of these sections imposes on the railway administration the duty, subject to certain exceptions, of constructing such accommodation works for the use of owners and occupiers of lands as are proved to be necessary within ten years from the date on which the railway passing through the lands was first opened for public traffic. Under the latter section an owner or occupier may require any reasonable accommodation work to be constructed by a railway administration at his expense after the expiration of the ten years.

(10) *Section 13.*—This section provides for the erection of fences in pursuance of express requisitions by the Governor General in Council, instead of under rules which can hardly be so drawn as to be applicable to all cases. The section also empowers the Governor General in Council to require the construction of screens in places where there is danger of horses being frightened by the sight or noise of rolling-stock moving on a railway.

- (11) *Section 14.*—This section reproduces the substance of section 7 of the Railways Clauses Act, 1863, and, following section 16 of the Railway and Canal Traffic Act, 1888, reserves to the Governor General in Council power to require as a condition of an order being made on a railway administration for the construction of works at a level-crossing that the local authority, if any, which maintains the road crossed on the level shall undertake to pay the whole or a fair share of the cost of the works.
- (12) *Section 15.*—In permitting a railway administration to act in a case of emergency without the permission of a Magistrate, and so going beyond the provisions of the corresponding section of the Indian Telegraph Act, 1885, this section confers a power which it is deemed essential that railway authorities should possess.
- (13) *Chapter IV.*—Section 16, sub-section (2), is designed to prevent the recurrence of the very serious accidents which have from time to time occurred from the unregulated use of locomotive power on railways under construction.

Provision has been made in sections 21 and 22 for the opening of a railway, without the sanction of the Governor General in Council or an Inspector, where there has been an accident resulting in a temporary suspension of traffic or where works are of so unimportant a character that the application to them of the general law relating to the opening of railways is unnecessary.

- (14) *Chapter V.*—This Chapter is the most important part of the Bill, and in its preparation careful regard has been had to the Railway and Canal Traffic Act, 1888, and to the Annual Reports of the Railway Commissioners.

Closely following the law in England, the Chapter imposes on railway administrations the general duty of arranging to receive, forward and deliver traffic without unreasonable delay and without partiality or undue preference, and the special duty of so treating through traffic at through rates. If the Governor General in Council is satisfied that any person has just ground of complaint against a railway administration for breach of either duty, he may refer the case to a Railway Commission for decision. Such a Commission is to be appointed only when there are cases to be referred to it, and it will be deemed to be dissolved as soon as it has decided those cases. It is to consist of a Law Commissioner who is to be a Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Governor General in Council has ordered the Commission to sit, and of two Lay Commissioners, of whom one must be an expert in railway business and one may be a representative of the mercantile community or any other person whom the Governor General in Council sees fit to appoint. The Commission so constituted may in any case referred to it make any order, by way of injunction, which may in the circumstances appear to the Commissioners to be suitable. If two of the Commissioners concur upon a question of fact, their decision on that question is to be conclusive. From other decisions of the Commissioners an appeal will lie to a bench of not less than three Judges of the High Court of which the Law Commissioner was a member or, from a decision of a Railway Commission in Burma, to such a bench of the High Court of Judicature at Fort William in Bengal. Orders made by a Railway Commission are to be enforced by the High Court of which the Law Commissioner was a member as if they were orders made by the High Court in the exercise of its original civil jurisdiction.

Sections 46 and 47, following English law, require railway administrations to keep open to the inspection of the public a book showing the rates for the time being charged for the carriage of animals and goods, and to comply with requisitions for details of gross charges made by and paid to them for the carriage of goods.

Clauses (b) and (c) of section 28 provide for the reference to Railway Commissions of other differences than such as relate to traffic facilities.

- (15) *Section 48.*—This section will remove any doubt as to the validity of any existing rules, and provides that, when rules have once been published in the Gazette of India, they may be extended to a railway by a reference to that Gazette and an announcement of their adoption for the railway, without being again published at length in the Gazette.
- (16) *Section 49.*—This section provides for the settlement by the Governor General in Council of differences between railway administrations respecting the use of any common terminus or line of rails where the differences are such as to be likely to affect the safety of the public.
- (17) *Sections 50, 51 and 52.*—The effect of these sections will be to confer on railway companies domiciled in India the same privileges as are enjoyed by Indian railway companies domiciled in the United Kingdom.

- (18) *Section 55.*—Some such clause is considered necessary for the purpose of covering the conditions which all railway administrations in India do in fact impose and in their quarterly handbooks of fares and rates publish for the information of the public.
- (19) *Sections 57, 58 and 59.*—The first of these sections legalizes the existing practice with respect to the disposal of unclaimed property. The second and third of them have been suggested partly by existing practice, partly by the case of *Eagleton v. The East Indian Railway Company* (8 B. L. R. 581), and partly by the proposal to give railway receipts the same effect as bills of lading.

The proposal to give such an effect to railway receipts has not been adopted in the Bill, because railway administrations are understood to be averse to it and it is not justified by existing legislation elsewhere.

- (20) *Sections 60, 78 and 102.*—The very common practice of falsely and fraudulently classifying goods is held to justify these clauses.
- (21) *Section 64.*—This section requires every railway administration to reserve in every passenger-train at least one compartment of the lowest class for the exclusive use of females.
- (22) *Section 67.*—The provisions of section 18 of the Indian Railway Act, 1879, respecting the preferential rights of ticket-holders have been omitted as being unnecessary and in practice unworkable. The carriage of troops on railways administered by companies is regulated by the contracts between the Government and the companies.
- (23) *Sections 70 and 110.*—These sections prohibit the transfer of return tickets.
- (24) *Chapter VII.*—This Chapter follows the rule embodied in section 10 of the Indian Railway Act, 1879. There have been very few complaints against the practical operation of this rule, which is based upon a judgment of the Bombay High Court reported at I. L. R. 3 Bom. 109; and, though the soundness of that judgment has been questioned, the Government of India, as at present advised, is of opinion that experience does not justify any material modification of existing legislation.

Section 73, respecting the carriage of animals, reproduces the substance of section 7 of the Railway and Canal Traffic Act of 1854; and section 75, following section 1 of the Carriers Act (1 Will. IV, c. 68), restricts the obligation of declaring the contents of parcels containing gold, silver and other precious articles to cases in which the value of the articles exceeds one hundred rupees.

Section 77 is designed to prevent the preferring of stale claims against railway administrations; section 79 saves certain military regulations; section 80 provides for suits for compensation for injury to through-booked traffic; and section 81 limits, substantially in accordance with the law of England, the liability of a railway administration in respect of accidents happening at sea to passengers, animals or goods which the administration has contracted to carry partly by railway and partly by sea.

- (25) *Section 94.*—This section provides that penalties incurred by railway administrations must be recovered in a District Court at the suit of the Secretary of State for India in Council, and authorises the Governor General in Council to remit such penalties.
- (26) *Section 100.*—The object of this section is to abate the nuisance caused by rolling-stock being kept standing on level-crossings.
- (27) *Sections 108 and 128.*—In the framing of these sections regard has been had to both French and German law. The provisions of sections 31 and 32 of the Indian Railway Act, 1879, are, like the English bye-laws on which they were based (36 W. R. 726), ineffective for their purpose, the difficulty of proving fraud under the latter section, even when it clearly exists, being often found in practice to be insuperable.
- (28) *Section 131.*—In this section it is proposed to deal with the question of the taxation of railways by municipal committees, cantonment committees, district boards and other like authorities. In the opinion of the Government of India the exemption which Guaranteed and State railways enjoy in some provinces from assessment to local rates on land should be extended to all railways throughout India. As regards municipal taxes, it is considered that such as have been levied hitherto in any municipality or cantonment may generally continue to be levied there, though possibly in a commuted form.
- (29) *Section 132.*—The necessity of such a section was illustrated recently by the attachment, in the North-Western Provinces, at the instance of a private decree-holder, of the engine attached to a mail-train.

- (30) *Section 133.*—The expansion of section 27 of the Indian Railway Act, 1879, has been suggested by a case in which a railway servant engaged in trade in contravention of rules which were binding on him and to the prejudice of the railway administration which he was serving.
- (31) *Section 134.*—Much inconvenience to railway administrations in India is said to result from there being no means of summarily ejecting from railway buildings persons who have ceased to be entitled to occupy them.
- (32) *Section 141.*—There have been instances of subordinate Courts objecting to the manager of a State railway appearing before them by deputy even where the attendance of the representative of the railway is required for purely formal purposes. There have also been many instances of great and unnecessary expense being imposed on railway administrations by reason of subordinate Courts refusing to allow petty prosecutions to be conducted by railway servants.
- (33) *Section 145.*—This section is suggested by section 122 of the Bill.

The 22nd October, 1888.

ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888:

NO. 21 OF 1888.

A Bill to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.

WHEREAS it is expedient that there should be a Financial Commissioner for Burma; It is hereby enacted as follows:—

1. (1) This Act shall extend to the whole of Burma (inclusive of Upper Burma), except the Shan States; and

(2) It shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, appoints in this behalf.

2. (1) There shall be a Financial Commissioner for Burma, and he shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(2) Any person appointed by the Local Government or by the Governor General in Council to the office of Financial Commissioner since the first day of April, 1888, shall be deemed to have been appointed under sub-section (1).

3. The Financial Commissioner shall be subject to the control of the Local Government and to Local Government. shall, subject to the provisions of this Act and of any other enactment for

the time being in force, discharge such functions as that Government may assign to him.

4. In any enactment for the time being in force in which the expression "Chief Revenue-authority" or "Chief Controlling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the commencement of this Act and to any conditions and restrictions which the Local Government, with the previous sanction of the Governor General in Council, may prescribe, be construed as referring to the Financial Commissioner.

5. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, delegate to the Financial Commissioner, subject to such condition and restrictions, if any, as that Government, with such sanction as aforesaid, may prescribe, all or any of the functions assigned to that Government by any enactment for the time being in force.

6. All acts and proceedings done and taken after the first day of April, 1888, and before the commencement of this Act, by any person appointed by the Local Government or the Governor General in Council to the office of Financial Commissioner, or by any person acting under the authority of a person so appointed, shall be as valid and operative as they would have been if they had been done and taken in exercise of powers conferred by or conferable under this Act.

7. The enactments specified in the schedule shall be modified to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE. ENACTMENTS MODIFIED.			Number and year.	Title.	Modifications.
Number and year.	Title.	Modifications.			
I of 1879	Indian Stamp Act, 1879.	In section 3, clause (7), insert the words "and Burma" after the word "Punjab".			words "in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma": in section 10 omit the words "British Burma": and in all other sections in which those words occur, except section 1, substitute the word "Burma" for them.
III of 1879.	Destruction of Records Act, 1879.	In section 7 insert the words "and Burma" after the word "Punjab".			
XXII of 1881.	Excise Act, 1881.	In section 3, clause (a), omit the words "British Burma", and for the words "in the territories administered by the Lieutenant-Governor of the Punjab" substitute the	XX of 1886.	Upper Burma Laws Act, 1886.	In the second schedule, first part, for "(ss. 2, 4 and 8)" against Act III of 1879, substitute "(ss. 2, 4, 5, 7 and 8)".

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to legalise and extend the powers of the officer whom, under the title of Financial Commissioner for Burma, it has been found necessary to appoint to aid the Chief Commissioner of Burma in the discharge of the very heavy duties which at present devolve upon him as the Chief Revenue-authority in that province.

The 23rd October, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888 :

NO. 22 OF 1888.

A Bill to amend the Burma Municipal Act, 1884.

WHEREAS it is expedient to amend the Burma Municipal Act, 1884; It is hereby enacted as follows:—

XVII of 1884. 1. In section 2 of the Burma Municipal Act, 1884, between the definition of "municipality" and the definition of "inhabitant", the following shall be inserted, namely:—

"owner" includes the person who is receiving the rent of any building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant, but except in sections 74 and 75 does not include the Government:—

Substitution of new sections for sections 58 and 59, Act XVII, 1884.

2. For sections 58 and 59 of the said Act the following shall be substituted, namely:—

"58. Every tax payable under section 41, clause (a), (b) or (c), or section 42, 43 or 44, in respect of any building or land, shall be payable jointly and severally by all persons who have been either owners or occupiers of the building or land at any time during the year of assessment, or, when the tax is payable by instalments, at any time during the period in respect of which the instalment is payable.

"59. (1) In the absence of any agreement to the contrary between an owner and an occupier of any building or land, any tax payable under section 41, clause (a), (b) or (c), which is paid by or recovered from the occupier, shall be recoverable by him from the owner, and any tax payable under section 42, 43 or 44, which is paid by or recovered from the owner, shall be recoverable by him from the occupier.

(2) A sum recoverable under sub-section (1) by an occupier from an owner may be deducted by the occupier from any rent due or afterwards accruing due from him to the owner."

3. Act XI of 1885 (an Act to correct an error in the Burma Municipal Act, 1884) is hereby repealed.

XVII of 1884.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to overcome a difficulty which has arisen from the fact that very many buildings in Rangoon are let out in apartments by the day, and that it is therefore almost impossible to levy from occupiers the taxes leviable under sections 42, 43 and 44 of the Burma Municipal Act, 1884. The only course open to the municipal authorities is to hold owners responsible for all taxes. Owners can, and do, take taxes into consideration in determining the rents of tenements.

The 23rd October, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th October, 1888 :

NO. 23 OF 1888.

A Bill to provide for the Establishment of a Village-system and amend the Law relating to Rural Police in Lower Burma.

WHEREAS it is expedient to provide for the establishment of a village-system and amend the law relating to the rural police in Lower Burma; It is hereby enacted as follows :—

1. (1) This Act may be called the Lower Burma Rural Police Act, 1888.

(2) It extends to the whole of Lower Burma; and

(3) This section and sections 11 to 23 (both inclusive) shall come into force at once.

(4) The other sections shall not come into force in any part of Lower Burma until the Local Government extends them thereto.

(5) Such extension shall be by notification in the Burma Gazette, describing the part of Lower Burma to which the sections are extended and the day on which they are to take effect therein.

(6) On and from that day sections 12 to 21 (both inclusive) of the Burma District Cesses and Rural Police Act, 1880, shall be repealed as regards that part.

[Reg. XIV, 1887, s. 2.]

2. (1) For the purposes of this Act "village" includes—

- (a) village-lands,
- (b) rivers passing through or by, and lakes adjacent to, those lands, and
- (c) a group of villages.

(2) The Deputy Commissioner may determine the limits of a village for the purposes of this Act.

[Reg. XIV, 1887, s. 3.]

Appointment of headman.

3. (1) The Deputy Commissioner shall appoint a headman in every village.

(2) In appointing a headman the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(4) When in any village there are two or more headmen, the Deputy Commissioner shall decide which of them is to be the headman for the purposes of this Act, and, with the previous sanction of the Commissioner, may make rules to define and regulate their relations to each other.

(4) The Deputy Commissioner may appoint a rural policeman or more than one such policeman in any village.

4. For clause (a) of section 9 of the Burma District Cess and Rural Police Act, 1880, the following shall be substituted, namely :—

"(a) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Rural Police Act, 1888".

5. For section 45 of the Code of Criminal Procedure, 1882, the following shall be substituted, namely :—

"45. (1) A headman appointed under the Lower Burma Rural Police Act, 1888, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his village;
- (b) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender;
- (c) the commission of, or attempt or intention to commit, within his village any of the following offences, namely :—
 - (i) murder,

- (ii) culpable homicide not amounting to murder,
- (iii) dacoity,
- (iv) robbery,
- (v) offence against the Indian Arms Act, 1878, and
- (vi) any other offence respecting which the Deputy Commissioner by general or special order, made with the previous sanction of the Commissioner, directs him to communicate information:

(d) the occurrence in his village of any sudden or unnatural death, or of any death under suspicious circumstances.

"(2) In sub-section (1) 'village' has the meaning assigned to that word in the Lower Burma Rural Police Act, 1888."

[Reg. XIV, 1887, s. 5.] 6. (1) The headman of a village shall be bound—

- (a) to investigate every offence respecting which he is required by section 45 of the Code of Criminal Procedure, 1882, to communicate information;
- (b) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person;
- (c) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself;
- (d) to forward as soon as may be to the nearest police-station or military post any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;
- (e) to resist any unlawful attack made upon the village;
- (f) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct;
- (g) on the written order of the Deputy Commissioner, or other Magistrate not below the rank of Myoók, to collect and furnish on payment supplies of food or carriage for troops or police posted in or near, or marching through, the village.
- (h) on the requisition of any Magistrate not below the rank of Myoók, to furnish labourers for the making or repair of roads, embankments or other public works;
- (i) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein;
- (j) to allot unoccupied land within the village for cultivation or house-building up to such limit and on such conditions as the Deputy Commissioner may direct;
- (k) if so ordered, and in accordance with such rules as may be made in this behalf by the Commissioner with the previous

sanction of the Local Government, to register all births and deaths which take place within the village, and any other vital statistics which may be prescribed by such rules;

- (l) to take such measures for the prevention of public nuisances and for the general sanitation of the village as may be prescribed in any rules made in this behalf by the Commissioner with the sanction of the Local Government;
- (m) to supply to the best of his ability any local information which any Magistrate or officer of police may require; and,
- (n) generally, to assist all officers of the Government in the execution of their public duties.

(2) Every rural policeman shall be bound to perform such duties similar to those imposed on a headman by sub-section (1) as may be imposed upon him by rules made by the Local Government in this behalf.

7. (1) If any of the offences mentioned in the [Reg. XIV, 1887, s. 6.] Disposal of petty criminal cases by headman is committed in a village, the headman of the village may, on complaint made to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof.

(2) The offences referred to in sub-section (1) are the following, namely,—

- (a) assault;
- (b) theft when the value of the property stolen does not exceed five rupees;
- (c) mischief when the mischief causes damage to an amount not exceeding five rupees;
- (d) criminal trespass; and
- (e) any other offence which the Local Government may, by notification in the Burma Gazette, declare to be triable by a headman under sub-section (1).

(3) If the accused is convicted, he may be sentenced to fine not exceeding five rupees or, if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be, or to confinement in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both.

(4) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case so triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to confinement in any place appointed as aforesaid for a term not exceeding fifteen days, or to both.

(5) Proceedings under this section shall be held in the presence of the complainant and the accused.

(6) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

or
classed
rupees, or
try.

(2) The Local Government may cancel or vary any such order.

(3) In any suit tried in accordance with the provisions conferred under sub-section (1), the headman shall, subject to revision by the Local Government, have the authority as the Local Government may appoint in this behalf, be final.

(4) Notwithstanding anything in the Code of Civil Procedure, a person shall not be bound to institute a suit in the Court of a headman.

authorities
strangers in the village, without the permission of the Local Government.

(7) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(8) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(9) A fee of one rupee may be levied on a complaint under sub-section (1) and of two rupees on a complaint under sub-section (4).

(10) No other fee shall be leviable in any case under this section.

(11) If the accused is convicted, the amount of any fee paid in respect of the complaint shall be recovered from him and repaid to the complainant.

[Reg. XIV, 1887, s. 7.] 8. If a headman or a rural policeman neglects to perform any of the duties imposed upon him by this Act or any rule thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, he shall be liable, by order of the Deputy Commissioner, to pay a fine not exceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

Penalty for neglect of duty or abuse of authority by headman or rural policeman.

[Reg. XIV, 1887, s. 8.] 9. (1) Every person residing in a village shall, on the requisition of the headman or of a rural policeman, be bound to assist him in the execution of his public duties.

Obligation on villagers to aid headman and rural policeman.

(2) If any such person refuses or neglects to comply with the requisition of the headman or rural policeman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, by order of the headman, to fine not exceeding five rupees, or to confinement in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

[cf. Reg. VIII of 1886.] 10. (1) The Local Government may, by notification in the Burma Gazette, invest any headman with the powers of a Civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within his village, and may, by general or special order notified in the Burma Gazette, specify the classes, and the value not exceeding twenty rupees, of the suits which such headman may try.

Civil jurisdiction of headman.

(2) The Local Government may at any time cancel or vary any such notification or order.

(3) In any suit tried in exercise of powers conferred under sub-section (1), the decision of the headman shall, subject to revision by such authority as the Local Government may appoint in this behalf, be final.

[XIV of 1882.] (4) Notwithstanding anything in the Code of Civil Procedure, a person shall not be bound to institute a suit in the Court of a headman.

(5) A fee of ten per centum of the value of the suit shall be paid on its institution in the Court of a headman, and no other fee shall be paid for the issue of processes or otherwise.

II. (1) The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village if after enquiry he has found—

Fine on villagers accessory to crime.

(a) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal;

(b) that they have suppressed or combined to suppress evidence in any criminal case;

(c) that, stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(2) In either of the following cases, namely:—

(a) when a fine is imposed on the ground stated in clause (a) or in clause (b) of sub-section (1), and the offence of which the criminal is accused, or to which the criminal case relates, is mischief by fire, dacoity, robbery or cattle-theft,

(b) when a fine is imposed on the ground stated in clause (c) of sub-section (1),

a sum not exceeding the amount of any damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property.

12. When within any village a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

Fine on villagers where homicide is committed or attempted.

(a) had not an opportunity of preventing the offence or arresting the offender, or

(b) have used all reasonable means to bring the offender to justice.

13. (1) If any person comes into a village of which he is not a resident, he or the person, if any, in whose house he is living shall, within twelve hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

Notification of residence of strangers in villages.

(2) The departure from a village of a person whose arrival has been reported under sub-section (1) shall also be reported by the person, if any, in whose house he has been living.

14. A person who is not a resident of a village shall not build any house, hut or enclosure, or take up his residence in the village, without the permission of the headman.

Prohibition of unauthorized settlement of strangers in villages.

[Reg. XIV, 1887, s. 13.] 15. (1) When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is in the habit of harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

[Reg. XIV, 1887, s. 14.] 16. (1) If a person contravenes the provisions of section 13 or section 14, he shall be punished, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

(2) If a person disobeys a requisition under section 15, he shall be punished, on conviction by a Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

[Reg. XIV, 1887, s. 15.] 17. (1) A fine imposed under this Act may be recovered as if it were an arrear of land-revenue.

(2) A fine imposed under section 11 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-tax payable by the residents of the village or to the land-revenue payable in respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

[Act XVII, 1887, s. 30.] 18 (1) The emoluments of a headman or rural policeman shall not be liable to attachment in execution of a decree or order of any Civil Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void.

[New.] (3) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may enforce the surrender of the land to the person for the time being holding that office.

[Act II, 1880, s. 20.] 19. (1) No prosecution shall be instituted against any headman or rural policeman for any act done by him in such capacity under the authority of a warrant issued by a Magistrate, notwithstanding any defect of jurisdiction in the Magistrate.

[Act II, 1880, s. 18.] (2) No complaint against a headman or rural policeman of any act or omission punishable under this Act shall be entertained by any Court unless the prosecution is instituted by order of or under authority from the Deputy Commissioner.

20. (1) An appeal shall not lie from any order made under this Act. [Reg. XIV, 1887, s. 16.]

(2) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(3) Save as provided by this section, an order made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

21. The Local Government may authorise any Assistant Commissioner, by name or by virtue of his office, to exercise in any district or part of a district all or any of the powers of the Deputy Commissioner under this Act.

22. (1) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

(a) conferring on rural policemen any powers or privileges which may be exercised or are enjoyed by police-officers under any enactment for the time being in force;

(b) prescribing the duties to be performed by rural policemen, including any duties imposed upon police-officers by any enactment for the time being in force;

(c) regulating the exercise, enjoyment and performance of those powers, privileges and duties by rural policemen;

(d) prescribing the procedure to be observed by a headman trying a suit in exercise of powers conferred under section 10, sub-section (1), the record which he is to make and the mode in which it is to be disposed of, the manner in which a decree made by him may be executed by himself, and the manner, circumstances and conditions in and on which such a decree may be sent for execution to, and be executed by, another headman or a Civil Court;

(e) for the disposal of fees levied under section 7, sub-section (9), and section 10, sub-section (5); and,

(f) generally, for carrying into effect the purposes of this Act.

(2) All such rules shall be published in the Burma Gazette and may be varied as the Local Government thinks fit.

23. This Act shall take effect notwithstanding anything in any enactment for the time being in force. [Reg. XIV, 1887, s. 18.]

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to increase the authority of village-headmen in Lower Burma, and, the social conditions of Upper and Lower Burma being very similar, it is considered by the most experienced local authorities that the best means of attaining this object will be to extend to Lower Burma the provisions of the Upper Burma Village Regulation, 1887. That Regulation, which gave to headmen several of the powers exercisable by patels in the Bombay Presidency and to Deputy Commissioners some of the powers exercisable by Deputy Commissioners on the Punjab Frontier, has been in force in Upper Burma for nearly a year, and its operation there has proved to be entirely beneficial.

Provision, similar to that in the Punjab Land-revenue Act, 1887, has been made with respect to the inalienability of the emoluments of village-officers.

The 23rd October, 1888.

C. U. AITCHISON.

S. HARVEY JAMES,
Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 22, 1888.

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

PART V.

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

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st December, 1888:—

NO. 24 OF 1888.

A Bill to Abolish the Office of Coroner of Madras.

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871, the Coroners Act, 1881, and the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. The Act shall come into force on such day as the Governor of Fort St. George in Council may by notification in the Fort St. George Gazette appoint in this behalf.

2. For section 3 of the Coroners Act, 1871, the following shall be substituted, namely:—

“3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.”

3. (1) For the preamble to the Coroners Act, 1881, the following shall be substituted, namely:—

“Whereas it is expedient to amend the Coroners Act, 1871, in manner hereinafter appearing; It is hereby enacted as follows:—”

(2) Sections 2, 3 and 4 of the Coroners Act, 1881, are hereby repealed.

Amendment of the Code of Criminal Procedure.

4. (1) Clause (e) of section 1 of the Code of Criminal Procedure, 1882, is hereby repealed.

(2) Sections 174, 175 and 176 of that Code shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras, be read as follows, namely:—

Enquiry into violent or suspicious death to be ordinarily conducted by officer in charge of police-station. “174. (1) An officer in charge of a police-station, on receiving information that a person—

- (a) has committed suicide, or
- (b) has been killed by another, or by an animal, or by machinery, or by an accident, or
- (c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the Commissioner of Police and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

“(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

“(3) In any of the following cases, namely:—

- (a) in any case in which the Local Government may by rule so require,
- (b) in any case in which there is any doubt regarding the cause of death,
- (c) in any other case in which the police-officer considers it expedient so to do,

he shall cause the body to be examined by a medical officer appointed in this behalf by the Local Government.

“(4) The police-officer may, by order in writing, summon two or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts

of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

"(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police-stations.

"175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(a) the circumstances in which an officer in charge of a police-station, after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (a), clause (b) or clause (c) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(b) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders

under sub-section (1) may be the Commissioner of Police or any of his Deputies or Assistants or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers and shall perform the duties which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

"176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174, sub-section (1), clause (a), clause (b) or clause (c), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

"(2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined."

STATEMENT OF OBJECTS AND REASONS.

THE Governor of Fort St. George in Council having, after consultation with the High Court, decided to abolish the office of Coroner of Madras, it has become necessary to introduce this Bill for the purpose of amending the Coroners Acts of 1871 and 1881 and accommodating to the circumstances of a presidency-town the provisions of the Code of Criminal Procedure, 1882, which relate to inquests, in so far as those provisions are to have effect in the Town of Madras.

The 21st December, 1888.

P. P. HUTCHINS.

S. HARVEY JAMES,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 7, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 6th January, 1888.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble F. M. Halliday.

DEBTORS BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Sir Charles Aitchison and the Hon'ble Sir Dinsha Manekji Petit be added to the Select Committee on the Bill to amend the law relating to Imprisonment for Debt.

The Motion was put and agreed to.

INDIAN PORTS ACT, 1875, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Hon'ble Mr. Halliday be substituted for Sir W. W. Hunter as a Member of the Select Committee on the Bill to amend the Indian Ports Act, 1875.

The Motion was put and agreed to.

CIVIL PROCEDURE CODE, &c., AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Evans be added to the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877.

The Motion was put and agreed to.

INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Sir Charles Elliott and the Hon'ble Rájá Peári Mohan Mukerji be added to the Select Committee on the Bill to consolidate and amend the law relating to the Protection of Inventions and Designs.

The Motion was put and agreed to.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Hon'ble Mr. Steel and the Hon'ble Sir Dinsha Manekji Petit be added to the Select Committee on the Bill to amend the Indian Stamp Act, 1879.

The Motion was put and agreed to.

POLICE BILL.

The Hon'ble SIR CHARLES AITCHISON moved that the Hon'ble Sir Charles Elliott be added to the Select Committee on the Bill to amend the law relating to the Regulation of Police.

The Motion was put and agreed to.

The Council adjourned to Friday, the 20th January, 1888.

S. HARVEY JAMES,
*Secretary to the Govt of India,
Legislative Department.*

FORT WILLIAM; }
The 6th January, 1888. }



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 28, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Thursday, the 19th January, 1888.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K.C.I.E.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir Dinsha Manekji Petit, Kt.
The Hon'ble F. M. Halliday.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Stamp Act, 1879. He said:—

"After the publication of the Bill we received a considerable number of criticisms and suggestions from the representatives of Insurance Companies as well as from other authorities. Substantially, no objection has been taken to the purpose to effect which the Bill was drawn; but the number of objections taken to what the Bill did not in any way propose to accomplish made it evident that it was desirable to modify its language so as to make its scope and intention more definite. It may be well then to explain that absolutely no modification is made in the law relating to any other subject than fire-insurance. The Bill modifies the definition of 'policy of insurance' by adding a clause which is strictly limited to fire-insurance; and although the amended schedule contains three parts, (a), (b) and (c), it is in (b) alone, which prescribes the duties on fire-insurance, that any modification of the existing law is made. The modification made in it is a reduction of duty, namely, that whereas under the law as it now stands a duty of six annas per Rs. 1,000 is taken on any policy of whatever duration, we now take less than six annas if the policy is for a period not longer than six months. If a short-term policy is renewed we levy duty upon the renewal until the total of six annas is made up, and when this total is made up, the taxation, as under the existing law, ceases.

"A slight difficulty as to the manner in which the duty on renewals was to be taken is met by wording the definition so that the duty leviable in respect of the renewal need not be denoted upon the original policy, but may be, and oftenest no doubt will be, denoted upon the receipt given by the insurer for the renewal premium.

"One or two of the Companies made suggestions for the reduction of the rate of duty generally. We no doubt levy in this country a higher rate of duty upon fire-insurance policies than is imposed by the law in force in England; but the present financial position is not such as to warrant our proposing any further relief beyond the reduction, to something like a proportionate rate, of the duty upon short-term policies; and the Bill has therefore been restricted to its original purpose."

The Council adjourned to Friday, the 27th January, 1888.

S. HARVEY JAMES,
*Secretary to the Govt. of India,
Legislative Department.*

FORT WILLIAM;
The 23rd January, 1888. }

NOTE.—The Meeting fixed for the 20th January, 1888, was, by order of His Excellency the President, held on the 19th idem.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 4, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 27th January, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.

The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. F. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland.

The Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K.C.I.E.

The Hon'ble Synd Ameer Hossein, C.I.E.

The Hon'ble Raja Pearl Mohan Mukerji, C.S.I.

The Hon'ble W. S. Whiteside.

The Hon'ble J. W. Quinton, C.S.I.

The Hon'ble R. Steel.

The Hon'ble Sir Dinsha Manekji Petit, Kt.

The Hon'ble F. M. Halliday.

INDIAN STAMP ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Report of the Select Committee on the Bill to amend the Indian Stamp Act, 1879, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. WESTLAND also moved for leave to introduce a Bill to provide for the levy of a customs-duty on petroleum. He said:—

"In asking the permission of the Council to introduce a Bill of which the intention is to increase our revenue, I shall naturally be expected to give some account of our financial position, and to satisfy the Council that an increase of revenue is necessary upon financial grounds. This expectation is all the more justified in consideration of the fact that, last week, we exercised the power given to us by the Legislature, to make an addition of 25 per cent. to the Salt duties, a measure which deserves some explanation in view of the discussions which took place in the Council two years ago on the occasion of the imposition of the Income Tax in its present form. It would be absolutely impossible for me, within any limits of time, to go over anything approaching to the whole ground covered by our Indian accounts; and I would only weary the Council by leading them into a maze of figures in which all connexion would be lost. I shall assume, therefore, that the Council are already acquainted with the position which we realised in the Financial Statement of last March, when we presented our estimates shewing a practical equilibrium of revenue and expenditure. I shall adopt that Financial Statement as my standard, and shall explain, by reference to it, in what respects we now find ourselves worse situated than we then were.

"I know there are people who will not allow me to accept that standard, alleging that it is in itself one of extravagant expenditure and should not be accepted as the foundation of a claim on the part of the Executive Government to an increase of its revenues. Nothing is more common among some of our public critics than to accuse us of wanton extravagance, but I always observe that these accusations waste themselves in generalities, and do not address themselves to specific items of expenditure which it is considered might with advantage be discontinued. There are some people who are so entirely unable to grasp the large figures in which our accounts are presented, that they assume that the fact of our expending 77 crores of rupees every year is in itself proof positive of entire absence of financial control. They forget the enormous area which this expenditure covers. Compare it with the expenditure of the United Kingdom; it is only 60 per cent. of the amount (77 crores against 128, which is the equivalent of 90 million sterling), and yet it covers an area ten times as large and a population seven times as large. Moreover, think how much the effect of this comparison would be enhanced if we were to include in the expenditure of the United Kingdom, as we do in those of India, the hospitals, the roads, and all the other expenditure that is in England charged to Local Rates, and even the expenditure on the maintenance of Railways. I know that the financial circumstances of England and of India are in many respects utterly incapable of direct comparison; but still, I think, we have some claim that those of our critics whose charges of extravagance are based only on the fact that our expenditure is stated in tens of millions, should bear in mind that the accounts we present are the accounts not of one Government, but of one Central and of nine Provincial Governments; and that of these Provincial Governments, five nearly equal in area, and somewhat exceed in population, the five principal Governments in Europe.

"We published, in the Financial Statement of March 1886, the comparative figures of our accounts for the past ten years, and I have seen the argument drawn from these figures that the rapid rate at which we have allowed expenditure to increase argues an absence of proper control. I have seen it made a matter of accusation against us that our expenditure in the first of the series of years alluded to was Rx.* 57,400,000, and in the last of them was Rx. 71,100,000, an increase on the face of it of Rx. 13,700,000, or some-

* The symbol "Rx." indicates tens of rupees.

thing like 24 per cent. But it is almost a dishonest mistake to take the figures this way in the gross. Dip a little below the surface, and you find that of this Rx. 13,700,000, Rx. 6,800,000 arises in the account of Railways, and merely means that the Government possesses at the end of the period many more miles of Railway than it did at the beginning, and that it has to pay a much higher rate of exchange on the remittances necessary to pay the guaranteed interest. The extension of Irrigation accounts, in the same way, for Rx. 500,000; the famine insurance grant, which was not expenditure, accounts for nearly Rx. 1,000,000; a bumper opium crop accounts for Rx. 750,000; the extension of Post Offices and Telegraphs accounts for Rx. 600,000, but it brings in as big an increase of revenue as of expenditure. There remains only Rx. 4,000,000 to represent any real increase of expenditure; and of this amount even considerable sections would have to be written off as having no bearing on the question of financial control or economy. Rx. 300,000 of it, for example, mean that we remitted the putwari cess in the North-Western Provinces by taking over, as Government expenditure, the establishments which were maintained out of it, and another Rx. 300,000, represent the portion of Salt Revenue which we annually hand over to Native States under the arrangements completed in 1878-79,—a fiscal reform of the utmost importance which led not only to great development of revenue, but also to great economies in expenditure.

"The figures which represent any real increase of expenditure during the ten years under review are dwindling down very rapidly; we have less than 3½ millions still to account for—something like six per cent. during the ten years. And even of this we might at once strike off, as entirely beyond our control, an increase of Rx. 600,000 in the charges for exchange upon our sterling obligations, namely, Rx. 400,000 in the interest on Sterling Debt, and Rx. 200,000 upon Superannuation charges; and as almost beyond our control, another Rx. 600,000 of exchange charges upon the Home Military expenditure. We have almost brought down to Rx. 2,000,000 what may be called the net total of the voluntary increase of expenditure in ten years.

"Of course we might have refused even this amount of increase. We might have refused to open new courts of justice where the increase of the population or of business demanded it. We might have refused to increase police expenditure, which is still, in the opinion of many authorities, at a dangerously low figure, and run the risk of breeding insecurity to life and to property. We might have stopped the increase of schools and of hospitals and of roads. We might have shut our eyes to events in Central Asia, and refused the increases of political and of military expenditure, forced upon us by the approach of a great civilized power on our North-West Frontier. In short, we might have refused to discharge the duties and responsibilities of a civilized Government, either with respect to our own subjects, or to the nations which lie beyond our frontier; and those who think we should have observed this attitude are, to this limited extent, right in pointing to our increase of expenditure as evidence of want of financial control. With such people I do not care to argue, and the Legislative Council is not the place where such arguments are called for.

"But while thus contending that the gross figures of our accounts contain in themselves at least a presumption of the moderate scale of our expenditure, I am far from denying that there is expenditure which cannot be done without. I would only say with reference to the details of it that we who are engaged in the control of expenditure in India, are so impressed with the hugeness of the demand for expenditure which is, of itself, of a useful and beneficial character, that we are the last people to willingly consent to divert to purposes of extravagance, any money which can be made available to meet that more pressing demand. There is hardly any limit to the amount of money that can be usefully spent in India, and the business of the financial authorities, both Imperial and Provincial, consists far too often in refusing money for objects of which the desirability cannot be denied, simply because it cannot be found either out of revenue, or by economies in expenditure.

"This is a process of exhaustion which goes on by a sort of compulsion and without intermission, in the ordinary course of the financial business of

every department, and is sometimes helped forward by special enquiries, such as those made by the Finance Committee of 1886. That Committee has presented to Government a plentiful crop of suggestions which will continue for a long time to exercise the various departments; but I think I may say, both for the President of the Committee who now sits on my left and for myself, that throughout our enquiries we were greatly struck with the carefulness of detail with which expenditure was supervised, and with the very large proportion of cases in which, when we raised questions on the facts before us, we found that the questions were no new ones to the authorities concerned, but had been amply examined and discussed, long before we were set to work to put the authorities once more upon their defence. But in times of financial necessity, the line must be drawn closer. The Finance Committee's work was to indicate in what way this might be done, and it has resulted not only in actual economies, the credit for a large instalment of which was taken in the estimates presented last year, but still more in establishing a more rigorous standard by which expenditure, actual and proposed, has to be judged. The expenditure which has passed the review of that Committee is not likely to be really liable to the charge of extravagance, and that which they did not accept as necessary and justifiable has been, or is being, elaborately examined in search of possible economies.

"I think I have said enough to convince the Council that in adopting, as the standard from which I am to start, the figures of the published estimate for 1887-88, I am not asking them to condone any past sins of extravagance; but am presenting the account of India as it stands after long years of close attention to the interests of economy.

"The period of ten years over whose history I have rapidly glanced, terminated with the year 1884-85; and two years ago Sir A. Colvin, in introducing the Income Tax Bill, described that year as the last of the fat kine; he said that the lean kine were come in, though he did not then know how terribly lean they were going to be. But those who have watched the course of Indian finance during the two years that have intervened since Sir A. Colvin in this place explained the then financial position, will be prepared for the announcement that, from causes which I shall presently explain, we are at the present moment even further from equilibrium than when the Government appealed to the Legislature for an extension of direct taxation. It seems to me that the best way of showing the nature and origin of the difficulties which have thus accumulated about our financial position will be to make a comparison between the figures of our accounts of 1884-85, the last year in which our financial position may be described as satisfactory, and those of the Budget Estimates of 1887-88. These Estimates shewed an equilibrium it is true, but it was, as Sir Auckland Colvin was very careful to explain at the time, an unstable equilibrium, an equality of revenue to expenditure, obtained only by pressing into the service of our expenditure revenues which up till then had formed a sort of reserve.

"For the purposes of this comparison, I have prepared, as my text, the following abstract of the accounts of 1884-85, and of the estimates of 1887-88. Abstracts, of course, may be made up in a hundred ways; but they all come to the same thing in the end, and are merely questions of the arrangement in which we choose to take up the subject in hand. The abstract I now put forward will be very easily traced back into its component figures in the published accounts; its main peculiarity is, that besides shewing the expenditure heads *net* instead of *gross*, I have separated the exchange figures, so that I may shew first how the comparison would have stood had there been no alteration in the exchange, and I have then shewn in a separate figure the extra charge falling upon us on this account. It will be seen that the totals up to which the Statement works shew that, whereas in 1884-85 we had 51 millions on the Revenue side, of which 48 went in Expenditure and 3 in Exchange, we find ourselves in 1887-88 with 3 millions more of Revenue, namely, 54 in all, but as Exchange now costs us 5 millions instead of 3, the 3 millions better Revenue afford us only one million for real increase of Expenditure.

000 omitted.			
	Accounts, 1883-84.	Accounts, 1884-85.	Budget Esti- mate, 1887-88.
EXCLUDING EXCHANGE—			
<i>Revenue Heads—</i>	Rx.	Rx.	Rx.
Land Revenue	22,362	21,832	22,937
Opium	9,556	8,816	8,893
Salt	6,145	6,507	6,604
Excise and Stamps	7,350	7,618	7,942
Assessed Taxes	526	512	1,406
Other Principal Heads	6,098	5,795	6,345
TOTAL PRINCIPAL HEADS	52,037	51,080	54,127
<i>Railway Revenue Account—</i>			
Railways net earnings	8,066	7,685	9,002
Deduct Interest, Annuities and other charges	—7,269	—7,563	—8,600
TOTAL REVENUE ACCOUNTS	52,834	51,202	54,529
<i>Expenditure Heads: Net—</i>			
Interest	3,116	3,282	2,753
Civil Expenditure (a)	19,609	20,021	21,616
Opium production	1,555	2,966	2,505
Post Office, Telegraph, and Mint	311	279	145
Irrigation	547	573	753
Civil and Military Works, Imperial	2,042	1,395	2,009
„ „ „ Provincial and Local (b)	2,734	2,698	2,220
Army	16,019(c)	15,200	16,907
Famine Insurance	1,523	1,548	95
Railway Construction	—176	263	75
TOTAL EXCLUDING EXCHANGE	47,580	48,225	49,078
EXCHANGE ON HOME EXPENDITURE	3,375	3,364	5,434
TOTAL EXPENDITURE	50,955	51,589	54,512
Surplus or Deficit	+1,879	—387	+17

"I have inserted, for purposes of comparison, the figures for 1883-84, but those I mean to deal with are the figures of 1884-85. The financial position in this last year may be called a position of equilibrium as we then understood the words. There is a nominal deficit of Rx. 387,000, but it is really due to the fact that the date with which our financial year ends, cuts in two the most active season of Land Revenue collection, and according to the distribution of the collections during the few days before and after March 31st, we get into the financial year sometimes a good deal more, and sometimes a good deal less, than twelve months' revenue. In 1881-85, we got a good deal less, but this of course was a mere temporary feature, and accounts for the fact that what was really a position of financial equilibrium shewed in the accounts as a deficit of Rx. 387,000. In fact as we are taking a general view of the financial position, and not confining our observations to the casual circumstances of a single year, we may go further and say that the year 1884-85 would have shewn the surplus of Rx. 500,000 prescribed by the Secretary of State, had it not been that a bumper crop of opium required an expenditure, exceeding by much more than that amount the average expenditure of a series of previous years. So that the financial position of that time might legitimately be described as one in which our ordinary standard of Revenue was sufficient to enable us to meet all ordinary expenditure, to set apart for famine insurance

(a) Includes Marine.

(b) After deduction of the amount charged against accumulated balances of past years (i.e. Provincial deficit). When a Provincial Government draws on its balances to increase its expenditure, it is for the most part under this head that the increase occurs.

(c) Includes 1,000 (one million) arrear charges.

Rx. 1,500,000, to invest in Railway Construction Rx. 263,000, and to shew after all a surplus of Rx. 500,000.

"We have now to compare with this the Budget Estimates of 1887-88; and first let us look at the Revenue side. Land Revenue has of recent years increased pretty steadily at an average of Rx. 120,000 a year and in three years this gives us Rx. 360,000; besides the addition of Rx. 420,000 of Upper Burmah Revenue. Salt, Excise and Stamps have added Rx. 400,000 to our resources. The new Income Tax has given us nearly Rx. 900,000; and other Revenues, say Rx. 200,000, besides Rx. 100,000 in Upper Burmah.

"Railway earnings have increased, but hardly at a more rapid pace than the charges against them on account, mainly, of interest and annuities; of course when exchange is taken into account the heavy addition more than swallows up all benefit by increased earnings, but we are at present dealing with the figures independently of this consideration.

"The saving under interest is apparent only; we have been borrowing in sterling, but it is under the head of Rupee debt that we make transfers from the ordinary to the Railway account of debt; and the apparent saving under interest on ordinary debt re-appears as part of the increase of charge on account of exchange.

"The Civil expenditure (which in our accounts unfortunately includes Marine charges) has increased by Rx. 1,600,000, of which at least Rx. 1,100,000 is due to Upper Burmah; the rest I do not stop to analyze; some of it is a mere set-off against increased revenue, and some of it is the unavoidable excess of estimates which disappears when the accounts are made up.

"For Imperial Public Works our ordinary standard is Rx. 1,000,000 for Military Works, and Rx. 350,000 for Civil Works, but the Budget of 1887-88 is charged, in addition to this, with Rx. 480,000 for Upper Burmah and with Rx. 200,000 for the construction of Military Roads on the North-West Frontier.

"The figures of Army Expenditure shew a very heavy increase; nearly Rx. 1,000,000 arise from the measures taken for the increase of its strength, which were alluded to in the speech of His Excellency the President on the occasion of the introduction of the Income Tax Bill. The real cost of these measures is over Rx. 1,500,000, but various economies and reductions have been secured under other heads of Military Expenditure, so that the net increase on the whole is stated under Rx. 1,000,000. But under this head we have also about Rx. 720,000 of special charges arising out of operations in Upper Burmah.

"We come now to the heaviest difference of all, the addition to the charge on account of exchange. Our remittances in 1884-85 were made at the rate of 19.31 pence (£1=R12.43), but in 1887-88 we estimated we could make them only at 17.5 pence (£1=R13.71); that is to say, each sterling pound of expenditure costs us 1.28 more in Rupees; and this difference, calculated on the whole amount of our sterling expenditure as it stood in 1884-85 (about £14,000,000), comes to Rx. 1,790,000. That is to say, that even if no increase of expenditure of any kind had occurred since 1884-85 we would still have to face an additional charge of this amount.

"Let us then summarize the changes that have taken place in our financial position between 1884-85 and the Budget Statement of 1887-88.

	Rx.
Army charges have increased by	980,000
We are spending on Frontier Roads	200,000
Upper Burmah is costing us—	
Civil and Marine charges	1,100,000
Military and Civil Works	480,000
Military Operations	720,000
	2,300,000
DEDUCT—Revenue	520,000
	1,780,000
Exchange adds to our account	1,790,000
Total new demands	4,750,000

These demands we have met as follows:—

	Rx.
(1) We have obtained by the imposition of Income Tax	900,000
(2) And by other improvements of Revenue	960,000
(3) We have stopped for the time the appropriation to Famine insurance of Revenue amounting to	1,450,000
and to Railway Construction of Revenue amounting to, say	260,000
(4) We have diminished the amount of Revenue assigned to Provincial Governments, thereby causing a reduction of their Public Works expenditure by	500,000
(5) And finally we have absorbed the prescribed surplus of	500,000
	4,570,000

"There remains Rx. 180,000 arising out of a number of smaller differences.

"This, then, was the financial position at the time of the Budget Estimates of 1887-88. The fall in the value of silver, the necessity of improving our military strength, and the expenditure connected with the occupation of a new province, had absorbed not only the three years' improvement of revenue, but the whole of the margin which we possessed in 1884-85. Every rupee of the revenue shewn in the estimates of 1887-88 was pledged, as the financial statement put it, "for the necessary expenditure arising from our administrative needs;" and for the risks of war, and of famine, and of exchange, and of opium, nothing whatever was reserved. Nay, more,—we were pledged to heavy expenditure upon the defences of our harbours and of our North-West Frontier, and this expenditure, all unremunerative as it was, was entirely provided for by borrowed money.

"I can speak with the greater freedom in these matters, because in the advice I have given to the Government of India, I have throughout sought counsel of Sir Auckland Colvin. It is not that a new Finance Minister takes up the reins in the middle of the financial year, and changes the policy announced by his predecessor in his Budget Statements. The policy is the policy of the Government of India as a whole, whether Sir A. Colvin is its mouthpiece in March, or I become its mouthpiece in January. In the Financial Statement of March last it was clearly explained, that the question of increase of revenue by taxation had been before the Government, and that its consideration had been adjourned, not because the position was satisfactory, but because we had reached a critical point, and it was just too soon for us to determine exactly how matters would have to be settled. It is not without great reluctance and after serious consideration that the Government of India can proceed to measures of increase of taxation; and so long as the position was such that it was possible it might be tided over without taxation, we refrained from a proposal which we would have had to justify, more by our anticipations of what might happen to us, than by our knowledge of what had actually occurred. The small and continual changes, by which in more settled countries the revenue is from time to time adapted to the expenditure, are out of place in Indian finance; it is our duty to resist change as long as we can, but, when it is at last forced upon us, it is equally our duty to face it.

"The changes which have taken place in our financial position since the date of the Budget, have settled for us the question which was then held in suspense; the strain was then as great as we could bear without resort to new taxation, but there was just a glimmer of hope that it might be relaxed. That hope has vanished; the strain has increased beyond the capacity of our revenue to endure it; and we are driven to seek remedial measures.

"The first item in which our burden is increased is again that of Exchange. The estimate of 1887-88 was taken at 17½ pence. During the past year exchange had been as low as 16 pence, but it had rallied, and it stood at over 18 pence in the beginning of February 1887. There were signs of a fall just before the estimates were published, but with such an unstable item, it was possible only to take current facts for our standard; and we would not have been justified in taking, by anticipation, a lower rate, and founding on our anticipations a claim on the tax-payer's pocket. After the year opened, however, exchange settled

down to a much lower rate than that of the estimates; and at that lower rate it has been so singularly stable, that the logic of facts compels us to assume, for all purposes of estimate of our financial position, the lower level, which seems for the present at least to be established, of just under 17 pence. Our present home expenditure is nearly £14,500,000; the military demands and the interest on the capital of the aided Railway Companies having added half a million to the standard of 1884-85; and upon this amount of expenditure the difference between 17·5 pence and 16·9 pence is Rx. 720,000.

"Then the railways have not been doing as well as we anticipated; our receipts under this head are greatly affected by circumstances so entirely beyond our control as the question of good or bad crops in America and in Russia, and the course of prices in England. We must necessarily accept such facts as they come, but the results of the year, up to date, are such as to shew that the Budget Estimate was based on too sanguine a view. We deal with huge figures under this head, for the gross earnings of the Railways which are paid into the Indian Treasury have recently been as follows:—

Actuals	1881-85	Rx.	15,958,615
"	1885-86	"	17,699,747
"	1886-87	"	18,109,537
Budget Estimate,	1887-88	"	18,428,770

"The active Railway season comes at the end of the financial year, and it is quite possible that we may witness a partial recovery before the year's account is closed; but as matters at present stand, our best estimate is that the net result of the Railway account, even after allowing for the reduction of working expenses, which becomes possible in a time of smaller earnings, may be Rx. 400,000 worse than in the Budget Estimates; and seeing the large amount of unremunerative capital expenditure that is going on, we should not reckon on any immediate improvement bringing in more than will cover the additional interest charges.

"In still one other respect have I to report what looks like a permanent deterioration in the financial position; it is in the effect on our opium revenue of the recent convention regarding the collection of duty in China. In the case of Bengal opium, the addition, or the additional certainty, of the duty in China reacts directly in reducing the auction price; in the case of Bombay opium, we get our full duty, but we cannot expect, if the Chinese maintain the rate of 110 Taels, to maintain the present amount of the export. The loss in the current year will be something between Rx. 250,000 and Rx. 300,000 as compared with Budget Estimate, and it would be unwise to fix the standard of future revenue higher.

"I have mentioned that Rx. 720,000 of special military expenditure in Upper Burmah was proposed in the Budget Estimates for 1887-88. The Government have not found it possible to reduce this expenditure so soon as was anticipated, and the figures of 1887-88 will shew a considerable excess over the Budget Provision. But measures of reduction are now being carried out, and we hope next year to get off with no more than the expenditure estimated for 1887-88.

"The deterioration in our position which we have to face is, therefore, thus made up—

Exchange	Rx.
Railways	720,000
Opium	400,000
	300,000
TOTAL	1,420,000

"If I have succeeded in making plain the financial position with which we started in the estimates presented last March, it will be immediately evident that we are now under an obligation to seek, by improvement of revenue, at least this amount of amelioration.

"I know that it may be objected that part at least of the expenditure which was charged in our estimates is of a temporary and special character only; that

it is of the nature of capital invested once for all. We have a new province, for the acquisition of which we have to pay large sums of money on account of military and military police charges. We have to fit it out with new roads and new buildings, civil and military; in short with all the appliances of a civilized administration. It is a country which we hope will ultimately pay even in a purely financial sense, but just at present it imposes upon us, as was shewn in the last Financial Statement, a net expenditure which may be stated at Rx. 1,780,000. It may be said of this and of the Rx. 200,000 of frontier roads in the Punjab, that they are a sort of Capital expenditure which we should not charge upon the revenues of the year. But there is really only one logical distinction that we can draw with reference to expenditure of this class. If, in respect of any of the expenditure we are now incurring, we calculate that it will produce in future a revenue sufficient to meet the burden of the interest, we may without fear meet it out of borrowed money, because we know that though we refuse to bear the burden now, we throw no burden upon our successors which we do not furnish them with the means of meeting. The financial position of future years will not be the worse for the course of action adopted by us. But in the case of expenditure, whether we call it expenditure on Capital account or on any other account, which will not in future be financially reproductive, we have absolutely no choice left us, but either to meet it out of the revenue of the current year, or by borrowing to throw the charge upon the unincreased revenues of future years; no amount of re-arrangement of accounts can alter the fact that it is a charge against the existing scale of revenue either of the present or of future years. It may be a fair question for discussion, to what extent we are equitably entitled to throw forward such burdens, and to the extent to which we are so entitled, we may fairly face a deficit and leave it to succeeding years to make it good by contributions which will continue after the expenditure has ceased. But there is assuredly no justification for our throwing forward the whole of the burden, and compelling future years to bear a charge to which we contribute nothing ourselves.

"But, in distributing the burden between ourselves and future years, we must take into account the whole of the circumstances. The Budget standard of Revenue and Expenditure was Rx. 77,450,000, and we have, as just explained, lost Rx. 700,000 of revenue, and added Rx. 720,000 of expenditure; so that we have now Rx. 76,750,000 of Revenue to meet Rx. 78,170,000 of expenditure. Even if we admit the division of this last into Rx. 1,980,000 of extraordinary expenditure and Rx. 76,190,000 of ordinary, the result will be that, after providing for our ordinary expenditure, we have a surplus of only Rx. 560,000 to set against the so-called extraordinary expenditure of Rx. 1,980,000. But unfortunately we have, of this last class of expenditure, not only the Rx. 1,980,000 just mentioned, which are inside the revenue account of our Budget Statement, but we have also the following amounts which we have not yet considered, and which are shewn among the expenditure charged to loan; namely, about Rx. 750,000 for special defence works and Rx. 1,000,000 for improvement of Railway communication on our North-Western Frontier. We have thus a total of unproductive expenditure of Rx. 3,730,000, and there is no doubt that this rate of expenditure will last for two or three years yet. Can it be pretended, that we do our duty if we contribute to this large amount no more than Rx. 560,000 out of the current revenue, and throw forward the balance of Rx. 3,170,000 as a burden to be met in future years? And the real state of the case would stand even worse than this, for as we have for the present thrown off the burden of insurance against famine, the Rx. 560,000 is all the contribution we have to offer, both for the chances of famine and for the heavy unproductive expenditure to which I have alluded. I do not think that, on the most selfish reckoning of the account between ourselves and future years, such a policy could be justified.

"It is only too likely that future years will have their own burdens to bear. We are a little too apt to talk of our own special burdens as if the financial sky would clear when they passed away, but Indian Financial history shews that

they too often pass away only to be succeeded by special burdens of a new kind, and that we should not too easily reckon on future years retrieving a position now lost. There is only one respect in which we have before us a certainty of relief, namely, that the conversion of the 4 per cent. sterling stock into $3\frac{1}{2}$ per cent stock, will, not next year but in the year after that, reduce our interest charges by £260,000 or Rx. 370,000. We may regard this as a partial insurance against further depreciation, but it is no warrant for our declining to undertake the measures that are necessary to render our present position sufficiently secure.

"I have now described the financial position, and the necessity which lies upon us of seeking to improve it by a considerable addition to our revenues. The Council are aware in what direction we have sought the greater part of the remedy, and that on Thursday, January 19th, we used the powers given us by the Legislature to raise the Salt Duty from Rs. 2 to Rs. 2-8 in continental India, and from 3 annas to Re. 1 in Burmah.

"After what was stated here two years ago, by Sir Auckland Colvin when introducing the Income Tax Bill, I need not say that it is with the greatest reluctance that the Government finds itself obliged to have recourse to the Salt Duty. The Government, in the beginning of 1886, appealed to the Legislature on the ground that before resort was had to a tax which falls on the millions of the poorer classes, it was bound first to obtain a reasonable contribution from the more wealthy. But that having been done, we are now obliged to proceed one step further, and adopt the measure from which we then were able to escape.

"When the Salt Duty, in 1882, was reduced from Rs. 2-14 in Bengal and Rs. 2-8 in the rest of India to Rs. 2, Sir Evelyn Baring wrote thus (*vide* Financial Statement for 1882-83, paragraphs 192 and 201):—

'192. In answering, therefore, the question of how far we may safely take off taxes in reliance on the Opium Revenue, a great deal depends on the nature of the tax we take off. If we abandon a source of Revenue which involves a permanent and absolute loss of money, and which moreover, from whatsoever reason, it would be difficult, in the event of the Opium Revenue falling, to restore to its former position, then the course would be open to great objection. If, on the other hand, we reduce a duty with a fair hope that the reduction will increase consumption, and thus, after a while, recoup us for any loss, and if, moreover, the duty can, without any great fiscal disturbance, be re-imposed in the event of the Opium Revenue falling off, then the reduction of taxation would be unobjectionable. The Salt Duty falls within the latter of these two categories.'

* * * * *

'201. I have said that, by reducing the Salt Duty, the general financial position will be strengthened. We hope that we shall be able to maintain the duty at Rs. 2 a maund, and we have at present no reason to suppose that we shall be unable to do so. By a return to a higher rate we should, of course, to some extent at all events, sacrifice the main object we have in view, *viz.*, to afford some relief from taxation to the poorest classes. At the same time I should observe that if any unforeseen circumstance, such as a heavy fall in the value of silver, takes place, and if, at the same time, the reduction in the Salt Duty does not result in any considerable increase in the consumption of salt, it would be open to us to return temporarily to a higher rate. This is an expedient to which the Government would have recourse with great reluctance. I allude, however, to the possibility of its adoption, for it is clear that should an emergency arise of a nature to diminish our other sources of Revenue or to increase our Expenditure, we shall be in a better position to meet it if the Salt Duty is Rs. 2 a maund than if it were levied at a higher rate.'

"The circumstances under which Sir E. Baring said that the Government might find it necessary to increase the salt duties, have now been realized. The value of silver has heavily fallen; the rupee was 20d. when Sir Evelyn Baring wrote, it is 17d. now. The opium revenue has failed; for it was then Rx. 9,800,000, and we now put it at Rx. 8,600,000.

"The following statistics, which exclude the figures relating to Burmah, may be given as shewing the consumption of salt and the duty paid on it. The figures are for the sixteen years ending 1886-87; and it may be added that

the first nine months of 1887-88 shew only a very small advance over the same period of 1886-87 :—

Year.	Consumption in thousands of Maunds.	Salt Duty in thousands of Rs.
1871-72	22,280	5,723
1872-73	22,833	5,902
1873-74	22,918	5,876
1874-75	23,182	5,906
1875-76	24,720	5,874
1876-77	24,557	5,985
1877-78	24,676	6,189
1878-79	25,205	6,511
1879-80	27,071	6,910
1880-81	26,660	6,751
1881-82	27,158	6,976
1882-83	28,720	5,729
1883-84	29,169	5,815
1884-85	30,746	6,129
1885-86	30,081	6,003
1886-87	31,633	6,338

"It may be noted, with reference to these figures, that, reckoning upon the averages above shewn, we may divide the whole into two periods. During the earlier of these, which preceded the reduction of duty in 1882, the rate of increase of consumption averaged annually 2·2 per cent.; while since the reduction of duty the annual increase has averaged 2·7 per cent.

"The figures shew also that the extra duty of eight annas may be expected to bring in an extra revenue of Rx. 1,600,000, and considering the improvement in all means of communication and the generally improved condition of the people, we may reasonably hope that the burden of a duty of Rs. 2-8 will not now have any effect in restricting the rate at which the consumption is increasing.

"The case of Burmah is different from that of the rest of India. The duty there has been three annas only, and as the Government of India were bound by treaty to permit salt to enter Upper Burmah at a very low rate of duty, it was practically impossible, while that treaty was in force, to levy, in the shape of Salt tax, from the people of Lower Burmah, the same contribution which was paid by the inhabitants of the rest of India. Another reason used to be urged in the same direction, namely, that the capitation tax in Burmah—or rather the capitation system of assessing Land Revenue—took to some extent the place of the Salt tax in Continental India. It is very difficult to draw comparisons between the burdens of taxation in the various parts of India, —especially when circumstances differ so much as those of Burmah and of Continental India,—but the present Chief Commissioner is strongly of opinion that the increased tax can easily be borne, and should certainly be raised. The present enhancement of the Burmah salt duty will add to the Revenues about Rx. 125,000.

"It is to be noted also, as regards Burmah, that we do not intend to renew the exemption from income tax which hitherto, for administrative reasons, has applied to Lower Burmah. The tax legally applies to the whole of Lower Burmah, but assessment and collection will be made only in towns and centres of trade. We therefore intend, in Lower Burmah at least, as in India generally, to make the richer classes contribute according to their means, while we impose the general Salt tax on all classes alike. In Upper Burmah, too, we hope to increase the revenue by taking measures for the restriction and taxation of the traffic in liquors and opium. We are carefully collecting information towards this end, as we are determined that any excise system which we introduce in Upper Burmah shall be really the imposition of a tax upon existing trade and shall not involve the expansion or creation of a trade where little or none exists.

"Another measure which the Government proposes to adopt for the increase of its revenues is the imposition of an import duty upon petroleum. Import duties in India are matters that require delicate handling, but there is not the

slightest occasion for us to take up the questions affecting such duties generally. I have only to say that we want money, and that whatever may be the case regarding other imports, petroleum is an article in respect of which most of the theoretical objections to an import duty disappear. The importation is, necessarily, and quite apart from any levy of duty, subject to rules and restrictions, which can very easily be made to lend themselves to the convenient and certain collection of duty. The oil is for the most part of a few well-recognized brands, so that there is no difficulty in fixing its value for purpose of duty. The production is a monopoly of one or two countries (mainly, America and Russia) with which the production of India or of other countries can hardly enter into competition, and the circumstances are such that the advantage which the producing countries at present have, will remain practically unaffected by the small duty we propose to levy.

"So far as the consumer is concerned, he will certainly, even after the tax is levied, be better off than he was only a year or two ago; we are taking from him only a small part of the benefit he has received through development of the trade during the past few years.

"The statistics of the trade are as follow:—

Imports of Mineral Oil.

Year.	Quantity, Gallons.	Value, R Lakhs.	Value per Gallon.
			R
1873-74	Not stated	3.51	...
1874-75	Not stated	7.98	...
1875-76	621,530	4.46	719
1876-77	439,123	4.91	1.12
1877-78	2,405,405	22.67	942
1878-79	3,775,674	27.17	719
1879-80	7,888,247	43.19	611
1880-81	10,060,026	48.70	485
1881-82	9,883,049	50.40	511
1882-83	21,059,668	92.93	441
1883-84	13,883,838	56.17	407
1884-85	27,306,999	115.82	425
1885-86	21,311,942	85.18	400
1886-87	31,949,633	125.99	395
1887-88 (8 months)	20,817,770	80.51	387

"As the value of the imports of this year is slightly in advance of the quantity imported during the same months of last year, we may estimate the probable annual import at the value of 130 lakhs of Rupees, on which a 5 per cent. duty will give us an income of Rs. 65,000. The cost of collection will, we anticipate, be very little.

"For this project the sanction of the Legislature is required, and it is for permission to introduce an amendment of the Tariff Act for this purpose, that I now apply to the Council.

"The Government have considered the question of imposing a counter-vailing excise duty on oil produced in India, but have decided that this should not be proposed. The only Indian production on any considerable scale is that above Thayetmyo in Burmah. The production there is about 2,400,000 gallons, but as 80 per cent. is lost in refining, there is less than half a million gallons for consumption. A Company which exploited the wells near Akyab, was driven from the market by the competition of American oil. There is a little oil in Assam, but it is not worked, and there is oil round about Rawalpindi, but it is not yet exploited, except to a very limited extent for Government purposes. The Government is labouring with some slight success, to obtain oil at Khattan, in Biluchistan. All these, however, are at the best mere nascent industries, which are utterly out of any chance of competition with imported

oils, and the machinery of an excise duty is not required and should not, in the opinion of the Government, be applied.

"The two sources of revenue to which I have mainly made reference, will give us an enhanced income of Rx. 1,790,000; and we may add Rx. 100,000 as a moderate estimate of the produce of the other revenues to which I have referred. With these our financial position, supposing no further fall in exchange, and no further loss of opium revenue to take place, two contingencies upon which it would be rash to calculate, may be stated in the following way:—

Revenue.	Rx.
Ordinary and Recurrent Revenues as they at present stand	76,750,000
New Salt Duties	1,725,000
Petroleum	65,000
Assessed Taxes and Excise in Burmah	100,000
Total Revenues	87,640,000

Expenditure.	Rx.
Ordinary and Recurrent Expenditure, being Rx. 560,000 short of Revenue	76,190,000
Special expenditure of which, except in the item of Military Expenditure in Burmah, no reduction can be expected for two or three years—	
(1) In Upper Burmah, in excess of Revenue	1,780,000
(2) Frontier Roads on the North-West Frontier	200,000
(3) Special Defences	750,000
	2,730,000
Total charged on Revenue Account	78,920,000

"Besides Rx. 1,000,000 of North-West Frontier Railway Expenditure which is practically of the same category as this last, but is shewn as Railway Capital Expenditure outside the Revenue Account.

"The Secretary of State, although in modification of former orders he has directed that the special defence expenditure of Rx. 750,000 should be shown inside the Revenue Account, undertook, in his Budget explanation to Parliament, that the step would not involve the raising of taxation to meet it. Leaving it out of the account therefore, we have a surplus on the revenue account of Rx. 470,000, which is certainly not too much to estimate for, in the face of the risks of further fall in the price of opium and of silver, and of the fact that we are providing nothing for famine insurance and are throwing forward Rx. 1,750,000 of financially unremunerative expenditure, namely, the present annual outlay on special defences to our Harbours and Frontiers, and on Military Railways on our North-West Frontier."

The Hon'ble RÁJÁ PEÁRI MOHAN MUKERJI said:—"I had no notion that the Hon'ble the Finance Member, in moving for leave to introduce a Bill for imposing customs duties on petroleum, would take occasion to place before the Council a statement of the financial position of the Government of India. As a non-official member of Your Excellency's Legislative Council, I wish it to be understood that, without a careful examination of the statement and of the arguments with which the Hon'ble the Finance Member has supported his figures, I am unable to say whether his reasons and the details he has submitted have my full concurrence. The additional duty on salt which Your Excellency has lately imposed by executive order has given the Government of India about £1,500,000, and it is at the same time a measure which has given very general satisfaction as one which will not touch to any appreciable extent even the poorest in the land. If more money is wanted, I think we should look in the direction of the import duties. There might be reasons why the Government should not try to re-impose any import duty on cotton twist and yarn and cotton piece-goods, which would give the Government of India a very large revenue, but I should think that petroleum is rather an insignificant article

of commerce to impose a duty upon. The total value of the article imported to this country barely comes up to a million sterling, and we should remember also that it is one of those articles which has found its way to the homes of the poorest people of the land. Any duty imposed upon it would therefore touch even the poorest classes. There are other things, such as hardware and metals, which are imported to this country to a very large extent. If I am not mistaken, metals to the value of nearly £6,000,000 are imported annually into this country, and about £1,000,000 worth of hardware, and the duty on either of these articles would not touch poor people. I submit these facts to the consideration of the Hon'ble Council and of the Hon'ble the Finance Member."

The Hon'ble MR. WESTLAND said:—"The observations which the last speaker has made tended rather to open out the question which I deliberately avoided taking up, namely, that of the import duties generally. It seems to me that, whatever might have been the objections to the removal of the import duties at the time,—and I know that a number of people, especially those connected with the commerce of the country, thought that the removal of the import duties was not called for,—the fact of the import duties having gone renders it practically impossible for us to re-impose them. As regards the proposal that, leaving the cotton duties alone, we should impose an import duty on hardware, I have only to say that the question of the imposition of import duties generally was one which, from many points of view, it was very difficult to take up; and that, as petroleum offers itself in a very easy manner to the production of a small duty, we have only at present made a proposal to impose an import duty on it, without going further. I fancy that next Friday we shall have some more observations regarding the possible sources of revenue, and it is better for me to reserve till that day any observations I have to make on the general question of raising revenue. I may take this opportunity of making some observations with reference to the procedure adopted by the Government in raising the salt duty the other day, because I have seen opinions expressed in some newspapers to the effect that the Government was not justified in resorting to what was considered an extraordinary means of raising the duty, namely, by issuing suddenly an executive order for raising an additional revenue of Rs. 1,600,000. I think we are justified, in the first place, by the consideration that, the legislature having laid down a definite mode of imposing the salt duty, it was not open to the Government of India to proceed in any other way. Besides, to announce the imposition of the duty beforehand would only be to disturb and disarrange the whole trade. If we were to announce to those who were engaged in the salt trade that the duty of Rs. 2, which was at present levied, would at some future date be raised to Rs. 2-8, the only result would be that everybody would make a rush to at once clear out the whole of the salt they could possibly get, and the result would be that a great part of the duty which we intended to impose would be evaded, to the advantage of a few individuals and the general loss of the State. It is always advisable, in the case of the imposition of new tariff duties, that the new measures should be taken suddenly and at once, so that every person might, as far as possible, be placed upon a precisely equal footing."

His Excellency THE PRESIDENT said:—"I do not think it necessary at this stage of the proceedings to trouble the Council with any special observations in regard to the motion before it. But I cannot help expressing my satisfaction at hearing from our hon'ble colleague Rájá Peári Mohan Mukerji that the recent increase which we have made in the salt duty has met with his approval. Representing so fully as he does the views of the intelligent and educated Native community of India, that expression of opinion on his part is very valuable. Of course it is with extreme reluctance that any one in my position can give his consent to any increase to the burdens of the people of India. Unfortunately it has become my lot on two several occasions to add to the taxation of the country. But in justification of this hard necessity it is sufficient for me to remark that since my arrival in India, owing to the depreciation in the price of silver, the annual accumulative loss to

the Government has progressively increased year by year by a million pounds sterling. The loss in 1884-85, when I first took up the reins of government, stood at £3,400,000; in 1885-86 it amounted to £4,400,000; in 1886-87 to £5,400,000; and now in 1887-88 to £6,200,000. But, even in the presence of these growing embarrassments, I would certainly have been unwilling to have agreed to an increase of the salt tax, had it not been, as the Hon'ble Mr. Westland has most clearly explained to the Council, that a somewhat unexpected loss of revenue had declared itself during the last year under two other heads—through a fall in the price of opium and in our railway receipts. As the Government would not have been in a position to suggest to the Council on other grounds than those of mere conjecture that any improvement would take place in future years under the head of exchange or even under either of the other two heads of income I have referred to, it became obviously our duty at once to strengthen our financial position and to provide ourselves with a working surplus. By the executive measure which we adopted a few days ago, and by the Bill which is now about to be introduced into the Council, I trust that this satisfactory result will be obtained. I am very glad that my hon'ble friend Mr. Westland has noticed the circumstances under which the Government was induced to issue a Gazette notification raising the salt duty. In acting as we have done, we have merely acted in accordance with the intentions of an Act of the Legislature which placed us in possession of those powers which we put in motion. To have adopted any other course would have been undesirable. To have given the kind of notice which some persons seem to have desired would have only benefited a certain number of individuals at the expense of the community at large. I can quite understand that my hon'ble colleague Rájá Peári Mohan Mukerji should have felt himself—and in that respect he has merely expressed what, I am sure, is the feeling of his colleagues—unable at this stage of the proceedings to enter into any of those larger questions of finance which my hon'ble friend Mr. Westland has brought to the notice of the Council. But I hope that he will appreciate the desire of the Government of India, in submitting to the Council so full a financial statement as that made by Mr. Westland, to profit by the experience and advice of those eminent gentlemen I see around me."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill. He said:—"The Bill, as hon'ble members will see, consists of two sections. The first makes a formal addition to the schedule which imposes import duties under the Indian Tariff Act of 1882. In that schedule we have adopted the definition of 'petroleum' which is given in the Petroleum Act, and it will be seen that our proposal is to impose an *ad valorem* duty of 5 per cent. The second section has for its object to make perfectly clear the manner in which, and the extent to which, the duty shall be brought into operation. There is a proviso in the Sea-customs Act—namely, under section 37—which has the effect, with reference to articles on which an existing duty is raised, of exempting from increased duties those shipments in respect of which port-clearance has already been granted, that is to say, which are in course of import but which have not yet passed the custom-house. This proviso, we are advised, does not, as a matter of law, operate in the case of petroleum, because the duty on petroleum is not raised, but a new duty is imposed. But if this proviso under section 37 did apply, then we are of opinion that we ought specifically to provide that it should not do so. The operation of section 37 is practically to give to people who happen to be possessors of petroleum at sea an advantage which is an advantage gained at the cost of the State; whereas every other person who is a producer of petroleum will have to pay the duty, those who happen to be the possessors of the petroleum which is on the sea obtain the advantage of landing it free, while the action taken by us will probably have the effect of raising the price in their favour. It seems to us unnecessary, if we do wish to raise a tax on petroleum, to secure for these petroleum dealers a special advantage of three months, and therefore we propose to the Council that the proviso of section 37 shall not apply in the case of the imposition of

this new duty upon petroleum. At the next meeting of the Council I shall move that this Bill be taken into consideration with the view of having it passed, if the Council approve, on the same day."

The Council adjourned to Friday, the 3rd February, 1888.

S. HARVEY JAMES,

Secretary to the Govt. of India,

Legislative Department.

FORT WILLIAM;
The 1st February, 1888. }



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 11, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE GOVERNMENT OF INDIA ACT, 1858, AND OF THE GOVERNMENT OF INDIA ACT, 1873, CAP. 67.

The Council met at Government House on Friday, the 3rd February, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.C.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Baksh Singh Bahadur, K.C.I.E.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Raja Perti Mohan Mukherji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble G. H. P. Smith.
The Hon'ble J. W. O. O'Sullivan, C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir Dinshaw Manockjee Petit, Kt.
The Hon'ble F. M. Halliday.

INDIAN TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Bill to provide for the levy of a customs-duty on petroleum be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble, Whiteside, Steel and Halliday and the Mover, with instructions to report in one week. He said:—

"Last week I explained to the Council that I would on that day week propose that the Bill for the levy of a customs-duty on petroleum should be taken

into consideration by the Council. But since then some circumstances have been brought to my knowledge which render it desirable that the Bill should be laid before a Select Committee before it is brought up before Your Excellency's Council. In the first place, there is a difficulty in the definition which we have applied to petroleum. It has been explained to us that this definition covers not only illuminating oils, which we ordinarily understand by petroleum, but a number of oils which are used for such purposes as lubricating and 'batching'—a process in the preparation of jute for manufacture. It is not our intention to impose a tax on lubricating or batching oil; and if we can by amending our definition more accurately exempt these oils from the operation of the duty, it is desirable to do so. Then, besides this my hon'ble friend Mr. Steel has brought to my notice that, owing to circumstances connected with the trade in petroleum, there are reasons why it is desirable that, in lieu of an *ad valorem* duty, a duty of so much per gallon ought to be adopted. My hon'ble friend will, no doubt, explain this matter in full to the Council, but, as the proposition has been made, I think it is desirable that it should be considered with more deliberation than can be done at a meeting of this Council. I therefore propose that the Bill be referred in the first place to a Select Committee. We shall lose a week's revenue at least by this step, but, considering the support which Your Lordship's proposals have received from the mercantile community, and even from the firms which are engaged in the import of petroleum, I think it is desirable that we should meet their convenience by examining the details of the Bill in the light of the opinions which they have given us. I hope by this means to be able to produce the Bill before the Council after another week in a form in which it will be possible for the Council to pass it."

The Hon'ble SIR DINSHAW MANOCKJEE PETIT said:—"Not having read the statement of the financial position of the Government of India which the Hon'ble Mr. Westland had placed before the Council at the last meeting in moving for leave to introduce the Bill for the imposition of a duty on petroleum, I was not able to express an opinion on the question then; but now that I have gone through this statement I see that the major portion of the loss which the Government has sustained was owing to the low rate of exchange, over which no one had any control, and in order to recoup this loss to some extent I am of opinion that an *ad valorem* duty on petroleum appears to be the least objectionable. Kerosine is now largely used by even the poorest classes. Take, for instance, a family consisting of four persons of this class; the weekly consumption of this oil among them is very often less than one quart bottle; and, if a duty of five per cent. is imposed on a 10-gallon case holding about 48 quart bottles and worth from Rs. 3 to Rs. 5 according to quality, the amount of duty, say, on a case worth Rs. 5, would be four annas (or 48 pies), and that is about one pie a quart bottle. Consequently this duty will not prove at all oppressive even on the poorest classes. I see that an objection in some quarters has been raised against the increase in the salt-tax of an additional duty of eight annas per maund; but, if the figures on this question are gone into, it will be found that this increase would be as little felt by the masses as would the duty on petroleum. As circumstances have arisen which necessitate the imposition of a duty on petroleum, and as this imposition would not, as I have above shown, at all affect the poor, I have nothing to say against its being levied.

"To recoup the continued heavy loss which has to be sustained every year in exchange, and which loss may hereafter still increase since exchange has fallen within a short time from 1s. 7d. to 1s. 5d., and may go still lower to 1s. 3d., I have to suggest that the question of imposing an import and export duty be considered, and for this purpose Government should, if it think it advisable, ask for the opinions of well experienced European and Native merchants in the three Presidencies, to see what their feelings and views on the subject are."

The Hon'ble MR. STEEL said:—"In the remarks which I propose to make I will, in the first place, address myself to the subject of the Bill now before the Council.

"I take no objection to the principle involved in the taxation of imported petroleum. On the contrary, I am convinced that, if additional revenue be required, there is no less objectionable source from which it can be drawn. I would have preferred that the amount of the duty had been fixed at an anna per gallon, which would have produced 20 lakhs, as it appears doubtful policy to impose a tax which will yield but 6½ lakhs of revenue. Even the higher rate of duty would not, in my opinion, materially affect the consumer, nor impede the development of trade. A tax on petroleum possesses the important advantage that it will involve little wastage for the cost of collection. The revenue derived from it promises to increase steadily from year to year, and will eventually be a valuable resource. But, while approving of the principle of the Bill, I desire to suggest that it may be greatly improved by substituting a tax on measurement for an *ad valorem* duty. A tax on value will give rise to disputes in appraising the oil. It will tend to discourage imports of the purer qualities of oil, and will encourage shipments of the cheaper and more dangerous kinds such as have in former years caused much trouble to Government. There is another objection to an *ad valorem* duty on this article. The value of a case of petroleum consists in about equal proportions of the cost of the oil itself and that of the tins and box in which it is packed. Now, if oil be imported in tanks and landed in bulk, such oil would practically be admitted at one-half the duty imposed on goods landed in the customary packages. I believe there is a probability that Russian oil may soon be imported in tanks. I am in a position to inform the Council that importers would prefer a duty of 4 annas per case of 8 imperial gallons, which would yield 10 lakhs of revenue, to the 5 per cent. duty on value proposed in the Bill and estimated to produce 6½ lakhs. Any oil imported in bulk might pay the same duty of half an anna per imperial gallon. I trust these suggestions may be considered by the Select Committee. The hon'ble member has explained to us that the second clause of the Bill is designed to make it clear that the immediate operation of the law will not be limited or restrained by the reservations of the Sea-customs Act, which, if they had applied, would have permitted shipments cleared for an Indian port before the passing of the Bill to escape free of duty. On this point I entirely agree with my hon'ble friend. In the case of the recent enhancement of the salt-duty, the effect of section 37 of the Sea-customs Act has certainly been to benefit individuals at the cost of the public revenue. I should be glad to see the recurrence of such an anomaly prevented, and would be prepared to support a modification of the law repealing the clause in question. While on this point I must express the surprise and regret with which I have seen blame imputed to Government for enhancing the salt-duty by an executive order. Speaking on behalf of the mercantile community, I do not hesitate to say that any other course would have involved most serious loss to the revenue, for which Government would have been justly held responsible. The unfortunate proviso of the Sea-customs Act to which I have referred has put 10 lakhs into the pockets of individuals at the cost of the public. A fortnight's notice of your intention would have doubled the loss to the country.

"The writers in the press seem to be ignorant that Government possesses statutory power to increase the salt-duty to any point within three rupees per maund without legislation—a power that is confined to salt. Another complaint advanced in the press is the alleged loss which has fallen upon the owners of bonded salt in consequence of the imposition of the enhanced duty. I have made particular enquiries into this allegation, and it may be of interest to the Council if I explain the facts. The great bulk of the Liverpool salt in bond is owned by a syndicate of Native salt-dealers. These gentlemen are also the owners of a much larger quantity of salt on the way which will escape at the old duty. The immediate effect of the change has been to increase the value of floating salt by ten rupees a ton, and to depreciate that of bonded salt by three rupees a ton. On the balance the syndicate will be gainers of a very large sum. One European firm stands in the same fortunate position. The Bombay salt in stock yields a large profit to the owners, as the duty was paid in Bombay at the lower rate at the time of shipment. The only other interest to be considered is that of the Muhammadan importers of Kurcuch salt from Aden and Jeddah. These mer-

chants are the owners of about three lakhs of maunds of bonded salt, the value of which is temporarily depreciated, and I originally feared they might be losers by the change. Yesterday, however, the three principal merchants called upon me to explain their position and ask my advice. Their spokesman, who is a gentleman of great intelligence and polished manners, answered with perfect frankness the questions I addressed to him; and it appears that, while losers in respect of their bonded stock, they have been the owners of a considerable quantity of salt afloat, by which they will make more than they will lose. Their complaint when analyzed amounted merely to their objection that, while the change in the duty had given a great profit to their neighbours, it had given them little advantage. The deputation left me, as I believe, perfectly satisfied with the explanations I gave to them. It is thus evident the owners of bonded salt have suffered no hardship.

"I will now take advantage of this opportunity to make some general remarks suggested by the statement of the Hon'ble Finance Minister. The public will regard with particular satisfaction the fact that such a statement has been submitted to us. It will be recognized that, by the adoption of such an unusual course, Your Lordship's Government has shewn in the most practical form a desire to obtain for your measures the support of public opinion. It will be believed that on this mark of your confidence we may found the hope that Your Lordship's powerful advocacy will be given to that demand for a modification of the Council's Act which has recently been expressed with a unanimity almost unexampled in Indian experience.

"The hon'ble member began his speech by repudiating the assumption that our present annual rate of expenditure can only result from extravagant administration. On this abstract question his defence was complete. He shewed that the ordinary expenditure on administration has only increased by two millions or 3 per cent. in ten years—a period which has probably added 15 per cent. to the population. So far from agreeing with those who charge the Government with extravagance, I believe it is far more open to criticism on the ground of penurious reluctance to incur expenditure for the better administration of justice and the increasing requirements of advancing civilization. On the subject of military expenditure the public is not in a position to offer intelligent criticism. Your Lordship's military advisers must be the judges of the value and necessity of military works. We have every reason to entrust them with our fullest confidence. We hold Government responsible for making us safe against any possible enemy—so safe that no one shall venture to attack us. Expenditure may be nothing more than a premium of insurance against panic and the reckless waste it occasions; but, even so, it is money well spent. And, if this responsibility is thrown upon Government, we must not grudge the means necessary for its efficient discharge. Nor do I complain that an unreasonable share of the cost of our defence will be thrown upon the coming year. I think the hon'ble member's views are entitled to generous support as those of a cautious and courageous financier.

"And now, my Lord, I must say something concerning the means adopted by Government for the restoration of financial equilibrium; and such value as this debate may possess will be derived from the expression of public opinion on this subject. As these measures have already been taken, and as we are now discussing what has been already done, and not what is yet to do, the debate is necessarily rather of an academic than a practical character. I trust, however, that the Council will not complain if I avail myself of this rare opportunity to offer some observations on the general subject of the comparative merits of direct and indirect taxation. The intelligent Englishman is apt to regard this comparison from the standpoint of his own experience. He knows that in his own country an income-tax yields without trouble a very large revenue. He knows that the proportionate cost of collection is small. He is a free-trader, and he knows that, if import-duties are to provide an important share of the British revenue, they must be exacted on a scale which will greatly curtail the volume of imports. He knows that, as trade is but another name for barter, a restriction of imports

would involve a diminished demand for English industrial products, now taken by other countries as payment for the goods which England imports. As an enlightened disciple of free-trade principles, he knows how the interests of England are best served. But when such a man turns his attention to Indian finance he will have much to learn. He will find that a six-penny income-tax produces but a small amount of revenue: that of that amount 8 per cent. is wasted in the cost of collection. He will be told that an income-tax is, obnoxious to every body; that it harasses not only those who pay, but also those who should not be asked to pay but who are worried with demands which it costs them much trouble and expense to set aside. For myself I may say that, while I have always considered an income-tax correct in theory, the experience of the last two years has greatly increased my objections to it on practical grounds. When the enquirer turns to examine the incidence of indirect taxation in India he must be prepared for a new revelation. He will find that a salt-duty produces a large revenue without complaint from any quarter; that my hon'ble friend by a stroke of the pen can find a million and three-quarters of revenue which will not cost an additional rupee to collect; that the consumer, who will now be taxed a half-penny per month for his salt, will continue to use as much as he wants, and that, if the tax were a farthing per month, he would use no more; that there will be as little cause for complaint now the duty is increased as there was for gratitude when it was recklessly reduced. I have every confidence that the duties on salt and petroleum will not in the slightest degree limit the consumption; that our English and American friends will send us as much salt and petroleum as before, and will take from us as much of our produce in exchange. But, having said so much in favour of indirect taxation, I may be asked why I do not push my argument to its legitimate conclusion and advocate the re-imposition of the import-duties on piece-goods and the immediate abolition of the income-tax. My reply to this must be that I see no use in discussing a matter outside the range of practical politics. I think the duties were rashly taken off, but under present circumstances I know we will not be allowed to re-impose them.

"And now, my Lord, I will venture to say that it will be a mistake if this debate is allowed to take too gloomy a tone. We have much reason to look forward with hope to the future. Agriculture, the great stand-bye of the Empire, is flourishing as it never flourished before. The manufacturing interests are prospering and developing to the great benefit of the country. Trade is growing in magnitude. Communications are being rapidly improved. Our debt, although large, is amply covered by the value of State property. Burma will soon be peaceful and prosperous. Our frontier defences will before long be in a satisfactory condition. In your recent speech, my Lord, you attracted the sympathy of the country by the expression of your regret that it should have been your unpleasant duty to add to the burdens of the people. But the day may not be far distant when some Viceroy (I hope in the interests of the Empire it may be yourself) will have the pleasant task of remitting taxation on justifiable grounds. When that day comes, I trust you will be able to consult your Legislative Council, and we are ready with our programme. I trust the court-fees will be reduced and the rice-tax remitted. The obnoxious income-tax should be the next to go, and when any further power of remission remains we will not complain if our Finance Minister tampers with the salt-duty."

The Hon'ble MR. EVANS said:—"I am not an expert in financial matters, but having watched with interest the course of Indian finances from 1878, when I first had the honour of being a member of Your Excellency's Council, I am strongly impressed with the conviction that indirect taxation must be our mainstay in this country, and that further attempts at direct taxation will cause waste and friction disproportionate to the results. It has been suggested in this particular instance that the import-duty upon piece-goods should be re-imposed. Apart from the fact, as has been pointed out, that this is not a practical proposal, it appears to me that their re-imposition in the shape in which they existed before has become an impossibility. The growing competition between India and Lancashire will prevent their being re-imposed without their being of a protective

character. I have not seen any practical proposals for raising the necessary money to meet the exigencies of the State but those which have been adopted by the Government of India, namely, the increase in the salt-duties and the tax on petroleum. The statement which was made by the Hon'ble the Financial Member on the last occasion is a very able statement. It shows very clearly the strain which has been imposed upon the resources of India by the continued fall in exchange, the diminished revenue from opium, combined with the necessity for expenditure on our north-western frontier defences and the expenditure in Upper Burma. It also shows very clearly—what I believe to be the case—that the public moneys in India are disbursed with strict economy and supervision in the administration of this vast empire. It is also clear, I think, that the Government has done what it can, and with considerable success by the Finance Commission, to prune and reduce establishment expenses to the extent which was within the scope of that Commission. But the outlook, with the possibility of a further fall in exchange and a great probability of a further diminution of the opium-revenue from the increasing growth of the poppy in China and other causes, together with the necessity of continuing our increased expenditure in Burma for some time to come, is not a cheerful one. I am, I believe, expressing the views of many when I say that the time has arrived for the Home authorities seriously to take in hand reforms which the Governor General in Council is powerless to effect or to deal with. The Home charges are what cause India to feel the exchange, and the Home charges are what India cannot deal with. They are very heavy and are capable of great reduction. The enormous expenses thrown upon India by the short-service system, and the constant movement of troops between England and India, involves enormous increased expenditure; and many competent authorities are of opinion that the increased expenditure brings no increase of efficiency, but rather the reverse. The expensive transport system and many points raised by the late Army Commission are matters which the Home Government is bound to grapple with. The India Office itself needs a thorough overhauling, and considerable reductions might be made; for the times have changed, and it will almost certainly appear that the system is more cumbrous and expensive than is needed. The purchasing and spending departments at Home should be narrowly looked into. *Quis custodiet ipsos custodes?* There is also the further important question as to whether the old system of presidencies with separate Governors and Commanders-in-Chief, and separate armies, should be maintained; and this too presses for solution. I think, when all has been done that can be done on this side, we are entitled to look for some relief from the other side of the water. Having helped ourselves all we can, we are entitled to call on the higher powers for aid. Meanwhile, the government of this country must be carried on, but unless the Home authorities bestir themselves shortly they must expect to encounter grave and general dissatisfaction."

The Hon'ble SYUD AMBER HOSSEIN said:—"My Lord, since the introduction of the Bill last week, I have made enquiries in direct communication with the dealers of kerosine oil, to ascertain what would be the incidence of the proposed duty. The present market or contract value of each box containing two tins of the oil as entered in the invoice is Rs. 3-9. The duty at five per cent. would amount to about three annas per box. The oil is retailed in the bazar to the poor people in bottles. Each box contains 10 gallons of the oil, capable of filling up 48 quart bottles. So the 48 bottles will pay a duty of three annas or 36 pies, and therefore each bottle will pay a duty of three-fourths of a pie. The present retail price of a bottle of oil is one and half annas or 18 pies. The addition of three-fourths of a pie to the 18 pies will not be an appreciable burden to the poor people. The above calculations satisfactorily prove the unobjectionable character of the proposed duty. I have read with great interest the very able Financial Statement laid before the Council by the Hon'ble Finance Minister. I think that the hon'ble member has made out a good case for the increased taxation, which happily has taken the indirect form. I feel bound to say, my Lord, that nothing is so unsuited to this country as direct taxation. The law may not be so harmful or inequitable in theory, but its administration, in spite

of the closest supervision of the controlling authorities, is nearly always unsatisfactory, and sometimes attended with a good deal of oppression.

"At the risk of treading on forbidden ground, I respectfully trust, my Lord, that, should necessity arise for a further increase of revenue, recourse may be had to that form of indirect taxation which was abolished by this Council a few years ago, and which, so far as India is concerned, is the least objectionable impost."

The Hon'ble RANA SIR SHANKAR BAKHSH SINGH BAHADUR said:—"I have fully considered the Petroleum Bill and the Statement of its Objects and Reasons. Since petroleum (including various kinds of inflammable liquids enumerated in the Bill) is an article of trade, it does not seem to me improper to levy a customs-duty on the same on its being imported into British India from any other country or island. My reasons for the above conclusion are as follows:—

"(1) the Government has, both on land and water, afforded every convenience and safety to the public by means of railways and steamers, which facilitate commercial communications with distant countries, and thereby cause the prosperity and development of commerce;

"(2) the Government, as far as possible, protects the property of every individual.

"Having these reasons in view, I entirely agree with the hon'ble member, Mr. Westland, in his proposal to impose a duty on petroleum; but, since at the same time it appears from the Statement of Objects and Reasons that the trade of petroleum has been on the increase for the last two years only, I beg to suggest that in the beginning, if deemed advisable, the rate of duty should be a little lower than that which has been proposed. In future, the rate may be raised if the said trade prove more flourishing, or if the present increase therein remain in after years steady."

The Hon'ble RAJA PEARI MOHAN MUKERJI said:—"The increased duty imposed upon salt a few days ago will so nearly meet the anticipated deficit, and the revenue expected from the proposed levy of a customs-duty on petroleum is altogether so small, that I was tempted for a moment to suppose that one of the objects for which this small measure has been proposed was to overcome the legal difficulty in the way of gratifying a widely and influentially expressed public desire. Such a supposition would, perhaps, have been wholly groundless, but I nevertheless feel beholden to Your Excellency's Government for having allowed me and my non-official colleagues in their Hon'ble Council an opportunity for discussing the main features of the financial budget for the ensuing year. The Hon'ble the Finance Member is to be congratulated on the lucid exposition of the financial position of the country which he has given to the Council. The inevitable expenditure for the defences of the north-western frontier and for bringing Upper Burma under civilised administration would have been met from the ordinary and recurrent revenues of the country if the increased loss by exchange and the falling off in the opium-revenue and the gross earnings of railways had not caused a strain beyond the capacity of our revenues to bear. It is again a sort of expenditure which, on account of its being immediately unproductive, must be charged on the revenues of the year. To think of meeting it by raising a loan would be extremely unwise, as it would permanently add to the burdens of the country and make the financial position of future years much worse. Before we realise therefore a substantial saving of expenditure by such measures of economy as might be carried without diminishing the efficiency of the various departments of the administration, there is a clear necessity for a large addition to the recurrent revenues of the ensuing year. The increased salt-revenues will supply this addition and leave but a small deficit, and, as petroleum is not a very important article of commerce and a duty upon it is likely to touch the poorer classes, I suggested at the last meeting the propriety of looking to other articles for raising a revenue upon by means of an import-duty. Whether a duty on metals and hardware would not press more harshly than one on mineral oils, at least on certain races and classes of the people, is, however, a

question which in the absence of carefully prepared statistics I do not wish to face. The very universality of its use points to petroleum as an excisable commodity, and all objections to a duty upon it in this country, based upon humanitarian grounds, vanish when it is considered that the average incidence of the tax upon every family in the empire will be less than half an anna a year."

The Hon'ble MR. WESTLAND said:—"It has been particularly gratifying to myself, and I doubt not also to the other members of Your Excellency's Government, to find that the proposals we have made for the restitution of our financial position have been so generally accepted by those who are most qualified to pronounce an opinion regarding them. I am afraid that a sense of relief from taxation in a more unacceptable form may have conduced in some degree to the general acceptance of the enhancement of the salt-duty. For myself, therefore, I would not carry this public approval of our policy so far as to remove the reluctance with which we had recourse to the salt-duties, and I shall be very glad when the time comes in which we can relegate the eight annas, which we have now re-imposed, back to the position in which Sir Evelyn Baring placed it, namely, that of a reserve to be appealed to in times of trouble. But our first duty undoubtedly was to put ourselves right with the world, by making our revenue adequate to our expenditure, and I think it is a matter on which we may well congratulate ourselves that our full and frank statement of our financial position has enabled the public to realize the difficulties which we had to meet, and to give its approval to the means we are adopting to escape from them.

"It is only fair that I should say we have no intention of now folding our arms and, having secured what we hope may be a balance on the right side, of relaxing our efforts in the direction of economy. So long as our financial position is dependent upon the maintenance of a salt-duty of Rs. 2-8, we must regard ourselves, in the management of our expenditure, as still under the same obligations which a deficit would impose upon us. We must also do our best in the development of our existing revenues. I look hopefully to a considerable increase in the excise-revenues, and believe that a great deal might be done in Northern India by the introduction of the methods which in Bombay and in Madras have so powerfully contributed to the increase of revenue under this head. I believe also that we have far from exhausted the possibilities of the provincial system, and I am of opinion that we may find in further development of it a means of increasing our financial strength. By these, and by other means, we must strive to bring more near to us the date when it may be possible to examine our revenues for the purpose of remission. My hon'ble friend Mr. Steel has recommended to our notice in this respect the rice-duties, which have certainly been repeatedly condemned on economic grounds, and which only financial necessity has preserved in existence. But I am afraid that remissions of revenue have at present only an academic interest, and it is only waste of time to discuss now what will most likely have to wait for our successors to decide.

"And for the same reasons I must also claim exemption from the duty of saying anything about the import-duties generally. The policy of their remission has been referred to more than once, both in former debates and during the present one. But the policy, I submit, must be regarded as a closed book. The practical questions which submit themselves for our decision are sufficiently numerous, and sufficiently important to occupy our whole attention; and the practical question with regard to the import-duties is not whether they should have been remitted or not, but whether, having been remitted, it is practicable now to re-impose them. To this question I do not think there can be two answers. Manchester and Bombay are now such rivals that it would be quite unjustifiable to tax Manchester with an import-duty unless we also taxed Bombay with an excise-duty; and the difficulties in the way of an excise-duty, especially with reference to mills which lie in Native territory or which might be transferred to Native territory, are such as to place the proposal outside the range of practical politics.

"The Hon'ble Rájá Peári Mohan Mukerji has in connexion with this subject referred to the propriety of re-imposing the duties on metals and hardware. The

tax upon metals yielded only 10 lakhs, and the tax upon hardware amounted to under 3 lakhs. Apart from the general inadvisability of re-imposing import-duties, there are practical considerations against the re-imposition of particular duties the proceeds of which would be small; for it can never be worth while to introduce the general machinery of a customs-duty for the purpose of obtaining the small sum of 13 lakhs. The justification for the imposition of a duty on petroleum lies in the fact that it can be done under the existing conditions of the trade with practically no additional expense or restrictions upon the trade. That would not be the case in regard to the imposition of duties on metals and hardware; and, moreover, I do not endorse the contention of my hon'ble friend that a tax on metals and hardware will only fall on the rich and not in any respect on the poorer classes.

"My hon'ble friend Mr. Steel has also referred to the claims made on behalf of litigants that we should reduce the fees payable by them, and the same subject was taken up in the letter, to which he has made allusion, of the Chamber which he so ably represents. For one reason I am glad that the reference has been made, because it gives me an opportunity of removing what seems to be a very general misapprehension. I shall not discuss the question whether the administration of civil justice may or may not be made a source of revenue just as reasonably as any other Governmental business: that is a question on which, especially in India, there may very well be two opinions. But I would simply ask the question—On what ground is it supposed that, as matters stand, the Government makes any profit at all? No figures that I have ever seen establish such a conclusion. It is easy to show that the revenue from court-fees more than covers the cost of the salaries of officers and the establishments employed in connexion with Civil Courts; but, before a fair account can be made up, numerous other items have to be regarded. You have to reckon, for example, the cost of pensions and of leave-allowances, and the cost of providing and maintaining buildings. It is not a very easy thing to do, but we have made elaborate investigations upon this basis; and the result, so far as we have made it out, does not support the view which has been too readily assumed by my hon'ble friend and by others. To mention only the case of the larger provinces: there is a considerable loss in Bombay; in the North-Western Provinces we also overspend the income by about 10 per cent.; in Madras we make a saving of about 5 or 6 per cent.; and in Bengal the saving is probably somewhat larger than that. The smaller provinces show a loss in every case. I cannot state in actual figures the result for the whole of India, but so much at least appears evident, so far as our investigation has gone, that very little, if any, profit is made out of the whole business, and that litigants do not, on the whole, pay more than is required for the maintenance of the Courts of law. I think it is very important that these facts should be known. The high judicial authorities who are charged with the over-sight of the administration of justice are necessarily, in the plain exercise of their duty, continually pressing for improvements and additional expenditure in all directions; and they have a strong case if it were really true that Government made the administration of civil justice a source of revenue. But, as this is not the case, India cannot afford to pay for perfection in that department any more than in any other, and the Government is not justified in setting aside financial considerations in dealing with these subjects. It is, to say the least of it, doubtful how far the reduction of the court-fees duties, even if carried out, would give the anticipated relief to litigants. Although I cannot speak from personal experience, I believe the payment of court-fees forms but a small proportion of the total of the law charges incurred by a litigant, and the reduction of their amount would make no great difference in the total of the charges which the litigant has to meet. But in any case the facts I have stated will show that, so far as the Executive Government goes, there is very little chance of our being able to afford any reduction of the revenue from court-fees as long as the expenditure bears its present proportion to the receipts; and that, if the public consider their burden too heavy, the only condition on which relief can be afforded is that by some reforms in procedure or system, or by some other means, a better tale of work be obtained from the existing Courts.

"My hon'ble friend Mr. Steel has referred also to certain complaints which have been put forward as to the hardships entailed upon the owners of salt in bond. The fact is, according to information which I also have received, that the owners of salt in bond happen also to be owners of larger quantities of salt in course of transit by sea; and, as he has explained, these owners, having large quantities of salt at sea in respect of which the provisions of section 37 of the Sea-customs Act applies, are able to realise large and totally unexpected profits; and while they are engaged in selling, at this unusual profit, the salt they have at sea, they of course put off, in the meantime, the sale of the salt they have in bond. The hon'ble member will, perhaps, be extremely surprised to hear that these merchants have made this the subject of a memorial to the Government, in which they refer to the action of the Government in suddenly increasing the salt-duties as imposing upon them a "ruinous loss." "Ruinous loss" is certainly a curious term to apply to an operation that has brought them an unexpected profit of some lakhs of rupees. I have no doubt that they would like to have its operation extended also to the duty upon salt in bond, by which, of course, their profits would be enhanced to double the amount they will now receive. But, when an importer deliberately chooses to bond his goods instead of bringing them to sale when first landed, he must accept the risk of an alteration of the duty at the time at which he chooses to bring the goods for consumption. It is very pleasant to learn that the notification of the enhancement of duty has not as a matter of fact involved any loss to the salt-merchants of Calcutta, but I confess it would have been preferable if the operation of the Sea-customs Act had not entailed a loss to the Treasury and a gain to them of the duty upon salt in course of transit by sea.

"On one other point, I wish, with Your Excellency's permission, to offer some observations. The proposal has been made that our present difficulties may be evaded by the plan of separating Burma from the rest of India, constituting it a separate province and borrowing against its future revenues. For such a plan, of course, separation from India must be absolute and complete; the mere separation of the Burma budget into a separate account, while still remaining part of the revenue and expenditure for which the Indian Government are responsible, would mean nothing at all. You do not get rid of expenditure, and of the liability that it imposes upon you, by the simple process of writing it under a separate account. But this separation of Burma into a new and separate financial entity is one of those proposals which crumble to pieces the moment you attempt to give them definite practical shape. The whole basis of it, of course, is that the local revenue is not at present, and is not likely for some time to come to be, equal to meeting the expenditure. We cast Burma adrift on the express ground that it is for practical purposes insolvent, and financially not worth keeping. But who will lend money upon the security of revenues such as these? Burma has no credit; it cannot have, if it is disparaged at the very start by such a policy. Whatever money is raised therefore must be raised on the credit of India; and we come back to the very methods to which I put forth the objections by anticipation last week. There is no difference whatever between the plan of opening a new Burma account and borrowing on the credit of India to meet the deficit it is to show, and the plan of charging the expenditure as Indian expenditure and borrowing instead of raising revenue to meet it. The latter is the honest and straightforward way of stating the facts; the former is an elaborate device for concealing the truth from yourself.

"A financial separation is therefore a practical impossibility, but, even if it were not so, it would be a policy to which we have no right to resort. The annexation of Burma differs in no respect from the various annexations which we have made from time to time, and which have built up the India we now know. One after the other they have been incorporated in the empire, brought under one common administration, one common system, bound together by ties—administrative, political, military and commercial—which render any idea of separation an impossibility. Some provinces are rich and advanced, some are poor and backward; but all have benefited enormously by the linking together in a common system. We have no more right to cast Burma out of the common brotherhood and to tell it to bear its own burdens than

we have to select the poorer portions of Bengal or Assam and to tell them that the wealth of their neighbours cannot be applied to giving them a share in the common civilization. For thirty or forty years Burma has been a member of the empire, has borne its share in its burdens, has paid like the other provinces its contribution towards the common imperial expenditure. After having obtained from it for so many years all the advantages which arise from the broader basis on which the empire has been built, and the measure of financial relief which is due to its participation in the common burdens, I cannot conceive by what right we can now impose upon it the burden of the new conquest and tell it that it must from its own resources and without help from us bridge over the interval that has to elapse between our first occupation of a new and undeveloped province and the time when it ceases to be a burden and becomes a support to our financial position. For Upper Burma, its annexation and its administration, we, the Indian empire, are responsible; and it would be as unjust politically, as I believe it would be in the end financially foolish, were we to attempt to pass on to others' shoulders the burden of the responsibility we have deliberately assumed. The time has not yet come when we need stand aghast at our own greatness and beg one of our own minor provinces to take off our hands the responsibilities which that greatness imposes upon us."

The Hon'ble LIEUTENANT-GENERAL CHESNEY said:—"I did not intend to trouble the Council with any remarks to-day, but something has been said by my hon'ble friend Mr. Steel in the course of his very interesting and lucid statement which tempts me to offer a few observations on the subject. I think we must all be indebted to the hon'ble member for having in a few words of admirable common sense explained away a great deal of the nonsense which has been talked during the last few days about the irregular action of the Government in regard to the mode by which the salt-duty has been enhanced; and it is very gratifying to find the general policy of the Government supported by so high an authority. But one remark was made by him to which I venture to take exception. My hon'ble friend spoke in terms of blame of the action of the Government in 1882 when they reduced the salt-duties: he spoke of the 'reckless' reduction of the salt-duties in 1882. I venture to demur to that expression as being a correct interpretation of the facts of the case. The Government in 1882 had a considerable surplus in hand; and here I might venture to remind the Council that India, whose financial condition my hon'ble friend Mr. Evans considers to be gloomy, shares with England the happy position which, with the single exception of the United States of America, it alone possesses among all civilised countries, of ever having a surplus in any years. If you examine the financial condition of all the countries in Europe, there is one point in which they all agree, namely, that there is uniformly a deficit, and uniformly a fresh loan, every year. The revenues of France, Russia, Italy, and I believe Germany also, year by year fail to make good the necessary expenditure, and the deficit has to be filled up by the inevitable loan. India has had occasionally to borrow money, but it has fortunately had during the last thirty years several years of surplus. India and England are the only two countries in that happy condition. Now, as regards the mode of dealing with a surplus, I think we may take a lesson from the practice which is followed in England. In England, when there is a surplus the practice used to be to take off some of the import-duties in order to cheapen articles which are in common use. After a time, when the process of reduction of the import-duties had been carried to a very great extent, then English financiers began to operate upon the income-tax. The practice having been dropped of the further remission of import-duties, there were practically only two ways of dealing with a surplus—to reduce the income-tax or to pay off a portion of the national debt; and the former alternative has been the one usually adopted. Now, in this country the salt-duties practically take the place of the income-tax in England. The income-tax in England is paid by a large proportion of the community, whereas in India the income-tax falls upon a very small percentage of the people, and it is only by dealing with a tax which affects the mass of the community that any considerable operation is possible, while, as has been repeatedly pointed out, the salt-duty is a duty which can be increased or reduced at will without any additional

expenditure for collection. Now, there were two courses open to the Government of 1882—to lower the salt-duties or to pay off debt. Suppose the Government had not pursued the 'reckless' course of reducing the salt-duties which had been commented upon by my hon'ble friend Mr. Steel; what would have been the certain consequence of maintaining that tax at the higher rate? Anybody acquainted with the history of Indian administration will know that there could have been but one certain result—the expenditure would have increased to the full extent of the surplus in a very short time. The Government of India with a surplus to dispose of would be immediately subjected to the pressure of the Local Administrations for larger grants of money, and we may be sure it would be inundated with proposals from all directions—from admirable motives no doubt—for the means of improved administration in all branches, and the surplus would soon be consumed. If, therefore, the salt-duties had not been reduced in 1882, the Government of India would have been left at this period without that valuable resource to enable it to retrieve its financial position. I venture to think that it is always incumbent upon the Government to pare down its revenue as well as its expenditure, and that a good surplus of one year should not be made available for increased expenditure, but should rather be applied to the reduction of taxation.

"I wish also to make one observation in reply to what has fallen from the Hon'ble Mr. Evans as to the gloomy prospects of Indian finance. In this my hon'ble friend echoes a good deal of what has been said during the last few days about the state of the Indian finances in many different quarters. I saw the other day in a highly respectable newspaper published at Allahabad, which generally writes in a very lucid strain, a reference to what it called the present financial crisis. Now I am old enough to recollect a good many financial crises. First of all came the great crisis of the mutiny, when forty millions had been spent, the collection of the revenue had been stopped over a large part of the country, and the treasury was empty—an occasion when it might indeed appear as if we were on the eve of national bankruptcy. Yet three years afterwards we had already arrived at a time of prosperity and a handsome surplus. Then, in 1876, there was a crisis during the famine, when we had to spend no less than sixteen millions merely to keep people alive. Then came the great drain upon the Government during the time of the Afghan War, when twenty millions were spent. Then again you heard the old story about financial bankruptcy. Three years afterwards, and during the time of Sir Evelyn Baring, he was able to bring out a prosperous budget with a large surplus. In face of these financial crises I think the language used in regard to the present state of things is a little hysterical. It is quite true that under conceivable circumstances, if all things combined to go wrong together—if exchange continued to go down—if the revenue from opium continued to fall, if trade became more depressed, then certainly we might be in a bad way. But, as my hon'ble friend Mr. Steel has reminded us, this is not a time of mercantile or social depression. The very loss by exchange, which is one of the causes of difficulty for the Government, in the opinion of a good many competent judges is a source of great prosperity to the country. I think, therefore, that, if we look back at the history of these real financial crises through which the Government has safely emerged, we need not be alarmed at the present state of affairs, which, compared with what has happened in the past, is merely a financial ripple on the water."

His Excellency THE PRESIDENT said:—"Our hon'ble colleague the Finance Member may certainly be congratulated on the candid and generous manner in which his financial statement has been received by all the members of this Council; and it is gratifying to the Government to feel that not only do we possess the unanimous approval and support of the Council, but that we may fairly conclude that the views which have been expressed by Mr. Steel in his very weighty speech, by Mr. Evans and by all the Native members are the reflex of that intelligent public opinion which they are so well entitled to represent. The question has been so ably dealt with by every member who has spoken, and the consensus of opinion is so general, that it is unnecessary for me to trouble the Council further. Of course the real difficulty attending our financial

policy is the instability of silver. With an uncertainty of that kind introduced into all his calculations, no Finance Minister can ever enjoy any real repose. He must be always conscious that in the unknown future there may exist contingencies which will upset all his calculations and destroy the anticipated equilibrium in his budget; but from the very nature of the case all that the Government can do is to exercise its best intelligence in calculating the probabilities of the actual situation and leave the ultimate issue in the hands of Providence. As I have already had occasion to say, had it not been for the fall in silver which has made me three millions a year a poorer Viceroy than I was when I first came to the country, notwithstanding even the fall in opium and the expenditure in Burma, I think we might have tided over our present difficulties without any resort to increased taxation. From what I have recently heard from our Minister in China it does not seem likely that any very considerable change in the mercantile relations between China and India as regards opium is likely to ensue. Again, though we have no right to allow such an anticipation to influence our practical policy, we may fairly hope that our railway receipts will also recover. With regard to Burma, there is no doubt that, although during the last year the expenditure has been very heavy,—heavier even than was anticipated,—it will be a diminishing charge, and even in the budget we are now preparing a change for the better will be shown. Moreover, it must be remembered that Lower Burma may be expected, if not altogether, at all events to a considerable extent, to be able to carry Upper Burma on its back. It is true the surplus revenue of Lower Burma which annually accrues over and above the expenses of its own administration, and now amounts to nearly a million, only represents the fair share which that province might be called upon to pay towards the general imperial expenses of administration; but, on the other hand, it is clear that, if Lower Burma did not exist, the large sums which for some years past we have received from thence would have had to be supplied by India herself from extra taxation from which she has now been relieved. Consequently, were the accounts of the two provinces to be united, the deficit in regard to Upper Burma, even for the present, will be found to be inconsiderable. It will be interesting to the Council to know that not only are we daily receiving satisfactory proofs of the rapidity with which Upper Burma is settling down and order is being established, but that we have made most satisfactory progress in dealing with all those subordinate questions which affect the Shan States and our relations both with Siam and China. It has been stated that this Government has determined upon the subjugation of the Shan States and that we are about to send a *corps d'armée* in order to carry this purpose into effect. Such an observation only shows how very great is the misconception which prevails in regard to the political and geographical condition of what are known as the Shan States. As you are aware, Burma may be described as a broad valley traversed by the Irrawaddy and the Chindwin, with the Arakan mountains on the western side and a corresponding high plateau on the eastern side. It is upon this plateau, which extends as far as the Salween, that the Burmese Shan States are situated. These States have always been subject to Upper Burma, and, when we took possession of that country, we sent messages to their various Chiefs that from henceforth they were to regard Her Majesty the Queen as their Sovereign. This information was received upon their part in a satisfactory manner, and they suggested that we should send up some officers to settle the exact nature of their future relations with us. We have taken advantage of the cold weather to despatch two political officers into the Shan States accompanied each by a small column. These gentlemen have traversed the whole district from one end to the other in perfect security, and have been everywhere received in a cordial manner, both by the population and by the various Chiefs. Not only so, but our agents have met on the extreme eastern frontier of Shan Burma the authorities of Siam, and have come to a preliminary understanding with them as to the frontier which is hereafter to divide the Shan States under British rule from those under Siamese jurisdiction. But what perhaps is even a more gratifying feature in the situation is the fact that the Government of His Majesty the Emperor of China is exhibiting towards us a most friendly spirit, and is doing everything we could desire to render

the settlement of that part of Burma which borders on China easy and successful. The Viceroy of Yunnan has received instructions to order the officials on the Chinese frontier to cultivate friendly relations with us, and the effect of this action upon the part of China is now becoming very marked. I may mention, as an additional proof of the desire of China to exhibit a conciliatory spirit towards the Government of India, that she is using her best efforts to induce the garrison of Tibetans who have passed beyond their own frontier and have built a fort on a road which was made by the Indian Government in Sikkim, and over which we have definite and strict legal rights, to retire within their own territories. Consequently, although, as must always be the case in a new province recently added to the empire, a very considerable outlay will be necessary in Burma with the view to furnishing it with roads, jails, barracks and public buildings, and for the purpose of opening up what are undoubtedly its large material resources, I do not think that any one need apprehend that our expenditure in Burma will eventually prove a source of financial embarrassment to the Indian Government. Thanking the members of the Council for the patience with which they have listened to my few observations, for the generous spirit in which they have received the financial statement which has been placed before them, as well as for the valuable suggestions which have fallen from various members, I proceed to put the motion, namely, that the Bill to provide for the levy of a customs-duty on petroleum be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble, Whiteside, Steel, Halliday and Westland."

The Motion was put and agreed to.

The Council adjourned to Friday, the 10th February, 1888.

S. HARVEY JAMES,
*Secretary to the Govt. of India,
Legislative Department.*

FORT WILLIAM;
The 8th February, 1888. }



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 18, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 10th February, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K.C.I.E.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir Dinshaw Manockjee Petit, Kt.
The Hon'ble F. M. Halliday.

INDIAN TARIFF ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to provide for the levy of a customs-duty on petroleum. He said:—

"Last week I mentioned the two objects which would mainly have the attention of the Select Committee. The first of these was the definition of

petroleum, and the second was the form in which it was proposed that the duty should be levied. As regards the definition, the intention was to levy a tax on those ordinary qualities of petroleum which are used for illuminating purposes. There are special qualities of oil which are imported, mostly of a more expensive nature, but which ought rather to be regarded as a raw material for manufacture. They are used for batching fibres and for lubricating machinery. The object we had in view in examining the definition was to frame it in such a manner that the tax would be levied upon those cheaper and ordinary kinds of oil used for illuminating, and at the same time would not reach those qualities which are imported purely for lubricating and batching. The solution of this difficulty we found in the Petroleum Act. That Act provides that, whereas ordinary petroleum, when it is imported, is subject to certain restrictions for safety's sake, that class which is required and imported for lubricating purposes, and of which the flashing point is 200° or over, is exempted from these restrictions. The Petroleum Act does not mention oils which are used for batching, but I find that in practice batching oil is treated in exactly the same way as lubricating oil. Batching oil, like lubricating oil, is above 200° flashing point. I am informed that oil which is below that flashing point can be used for batching; but the Chemical Examiner to Government states that, so far as specimens of batching oil have been submitted to him, he has not received any specimens of which the flashing point is below 200°. It is obvious, therefore, that by this 200° standard we can practically separate the two classes of oils which are imported—those which are imported for illuminating purposes and which we desire to tax and those special qualities which are imported exclusively for lubricating and batching purposes and which we desire to exempt. The definition, therefore, exempts from taxation oils of which the flashing point is 200° or over, and which are intended for lubricating and for batching purposes.

"Then, as regards the form in which the duty is proposed to be levied, the Select Committee have accepted the recommendation of the mercantile community to impose a fixed duty instead of an *ad valorem* duty. It is obvious that the levy of a fixed duty is much more convenient than a duty assessed *ad valorem*. The objections to it are mainly that the poorer classes, who naturally use the cheaper qualities of oil, are, by a fixed duty, made to pay a higher rate of taxation than the wealthier classes, who naturally use the more expensive qualities of oil. But enquiries show that in the case of kerosine oil there is very little difference in price between the lowest qualities which are imported and the highest. I find that, taking, for example, Rs. 3-13 as the average price of imported oils, the cheapest quality is 7 annas below that and the dearest 7 annas above it. The values therefore being so near uniformity, it is obvious that a fixed duty will in its operation differ not very essentially from an *ad valorem* duty; and therefore it may by preference be adopted, as in other respects its simplicity recommends it. I may mention that there is a very small quantity of high priced oil imported. This high priced oil will, by the levy of a fixed duty, escape its proper proportion of taxation; but it is better to accept the inconvenience of an inequality like this than the greater inconvenience of applying all the difficulties of an *ad valorem* duty to the much larger quantity of the ordinary oils which are imported.

"Then, as regards the amount of the duty which we have inserted in the Bill, we have again accepted the recommendation of the mercantile community. The rate is a little heavier than that which was proposed in the original Bill. It comes to about 8 per cent., whereas, as originally proposed, the rate amounted to only 5 per cent., and the proceeds from the higher rate of duty are computed at about 10 lakhs, whereas formerly it was computed at 6½ lakhs. But the best opinion is that the trade can easily bear the higher rate of duty. Petroleum has so great an advantage over other illuminating oils in respect of the cheapness of its production that this duty of half an anna per gallon will not materially modify that advantage. We are not in a position at present to refuse even 3½ lakhs which this additional rate of duty suggested by the mercantile community will give us. And it must be remembered in its favour that a tax on petroleum will be for the most part a tax upon the well-to-do classes, as petroleum is chiefly used in municipalities and large towns, while the ordinary rural villager

still adheres to the dim light of his ancestors and does not understand the arrangements of glass and brass which are necessary for the consumption of kerosine.

"I have one more remark to make, and that is to explain that we have adopted this fixed rate of duty per gallon in preference to a fixed rate at so much per case. There are two reasons for this: one is that which was given by the Hon'ble Mr. Steel at the last meeting of the Council, when he explained that it was perfectly possible, and even probable, that in a short time petroleum would be imported not in cases but in tanks; another reason is that the cases which arrive often suffer damage during transit, and the importer finds on their arrival that the cases are partly leaking and empty. The custom is for the importer, or rather the purchaser, after landing the cases, to make up, out of a number of leaky cases, a certain number of full cases. The result of applying the tax per gallon will be to avoid any question about charging empty cases otherwise than according to their ability to pay."

The Hon'ble MR. WESTLAND also moved that the Report of the Select Committee be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

POLICE BILL.

The Hon'ble SIR CHARLES AITCHISON presented the Report of the Select Committee on the Bill to amend the law relating to the Regulation of Police. He said:—

"It is unnecessary for me to trouble the Council with any lengthy remarks. My hon'ble predecessor Sir James Peile, in moving on the 6th of October last for leave to introduce this Bill, explained that the necessity for it lay in the difficulty experienced in dealing with the police of the railway-system under the general Police Act of 1861 and under the local Police Acts of the presidencies of Madras and Bombay, which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members. These Acts were passed more than a quarter of a century ago, but with the universal facilities of communication, both by road and railway, which have been introduced, a state of things has been developed which could not be realised when the police, as now constituted, was organised. In 1861, when the general Police Act was passed, the entire length of railways open to public traffic was only 1,588 miles; in 1887 it was 13,867 miles—having multiplied more than eight-fold in the interim. In 1861 the railway-lines were either all within the jurisdiction of one Local Government or of two conterminous Local Governments; so that any break in the police-jurisdiction could easily be arranged for. Now the great trunk lines of railway are completed, and people may travel from one end of India to another by various lines. These lines necessarily pass through many jurisdictions, and with each change of jurisdiction there is a break in the continuity of the police-arrangements. Take, for example, the North-Western Railway, where there are at present no less than seven different forces of police under the control of various authorities. This state of things presents serious difficulties in the prevention and detection of crime in the altered circumstances of the country. The Bill of which I now present the Report of the Select Committee proposes to remove these difficulties, first of all, by enabling Government to create general police-districts embracing two or more jurisdictions through which a railway-line may pass; secondly, by enabling the police of such general districts to act outside the railway-boundary in subordination to the Local Government having jurisdiction in the particular place. The opportunity has also been taken to provide for the employment of police-officers beyond the province to which they belong. I have only to add that the principle of the Bill has been very generally approved by the Local Governments who have been consulted."

At the conclusion of the business of the Council, His Excellency THE VICEROY said:—

"GENTLEMEN,—It would be scarcely respectful that I should allow the members of this Council, with whom I have been so frequently associated in devising legislative measures for the good of this country, to separate without referring to the announcement, which was made public yesterday, that I had obtained the permission of Her Majesty's Government to resign the Viceroyalty of India at the end of the present year. It may be well imagined that no one in my situation would take such a step without feeling both pain and regret; for the post I am now filling is at once the most honourable and the most important that can be held by a subject of the Crown. It was with no light heart that I accepted it, and it is with a deep sense of the responsibility I owe to my Sovereign, to my fellow-countrymen at home, and, above all, to the inhabitants of India, that I have endeavoured, however imperfectly, to discharge the laborious duties attaching to it. I desire it, therefore, to be understood that I have been actuated by imperative private considerations alone in pursuing the course I have adopted. From the time I set foot in India till the present moment not a shadow of difference has arisen between myself and the Government at home, nor, as I trust, have I in any way forfeited the confidence of the Secretary of State. Indeed, I cannot sufficiently express my deep gratitude for the generous support I have received at the hands of the successive Ministers who have presided over the India Office since 1884. Neither has anything occurred in India itself to render my position as Viceroy less agreeable or less attractive than it was when I first came to the country. On the contrary, from the entire European community, from all classes of my Native fellow-subjects, whether Hindu or Muhammadan, whether Princes or private persons, whether at Calcutta or in other localities, I have received constant and innumerable tokens of sympathy and good-will. I only wish I had been better able by my public exertions to show my appreciation of so much loyalty and kindness. Domestic reasons alone have induced me to return home a year before the regular effluxion of my term; but, after all, it must be remembered that in limiting my service in India to four years I shall have stayed in this country as long, or almost as long, as any of my immediate predecessors; and four years of such constant labour and anxiety as a Viceroy is called upon to bear is almost as much as is good for any one; so that I cannot but feel it may be for the public interest that I should resign my charge into the hands of a younger man, especially as the general political condition of the country, whether we regard its domestic affairs or its external relations, is prosperous and peaceful. Had it been otherwise, I would have gladly sacrificed every personal consideration in the cause of duty. With regard to my successor, all I can say is that, had the choice lain with me, he is the very person whom I would have suggested, possessing as he does every quality to recommend him to the confidence of the Crown and of the nation. A grandson of one of our most venerable statesmen, and initiated from his earliest youth in the conduct of serious political affairs, he is now discharging the duties of Governor General of Canada in a manner equally satisfactory to the people of that great Dominion and to the Government at home. He is in the prime of life, and married to one of the most charming ladies that ever graced London society; and, whether as presiding over the social or the political world of India, I prophesy for him universal popularity and acceptance. Gentlemen, I feel that I have already occupied you too long with my own personal affairs, but my great gratitude for your constant kindness and assistance, and the friendly regard in which I hold every member of this Council, have induced me to trouble you with these observations."

The Council adjourned to Friday, the 17th February, 1888.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 16th February, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 25, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 17th February, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K.C.I.E.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir Dinshaw Manockjee Petit, Kt.
The Hon'ble F. M. Halliday.

POLICE BILL.

The Hon'ble SIR CHARLES AITCHISON moved that the Report of the Select Committee on the Bill to amend the law relating to the Regulation of Police be taken into consideration. He said:—

"Having at the last meeting of the Council explained the object of the Bill, and the manner in which it was proposed to meet it, it does not occur to me that any remarks on the details of the Bill will assist the Council in coming to a determination on it."

The Hon'ble RAJA PEARI MOHAN MUKERJI said:—"This is one of those measures in which the legislature must content itself with investing Your Excellency in Council with the proper powers for devising a scheme and making rules for working it. The necessity for an imperial police service becomes evident when it is considered that, by reason of the rapid extension of railways, the local police of different districts and provinces have to deal not merely with local criminals but others who come from distant parts of the country. But the inconvenience of having an inter-provincial police service should not be lost sight of. It would be difficult for such a service to utilise the valuable local knowledge possessed by the police of different districts and provinces, and there is also the graver question as to how to regulate the subordination of officers when an imperial service overlaps the local service and exercises a jurisdiction of its own. These are matters which will, no doubt, be provided for by the rules which will be made under the Act."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES AITCHISON also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

METAL TOKENS BILL.

The Hon'ble MR. WESTLAND moved for leave to introduce a Bill to prohibit the making or issue, by private persons, of pieces of metal for use as money, and the making of coins in resemblance or similitude of coins of Foreign States. He said:—

"Before explaining to the Council the circumstances which have led to the introduction of this Bill, I wish to state at the outset that the Government has no intention of introducing any crusade against what are ordinarily known as 'dummy' pice. These pice have been in circulation in India before the British Government held it, and they no doubt are very convenient to the people, whose transactions are on such a small scale that they cannot be adapted to the legal unit of the rupee. In the remoter parts of the districts of the North-Western Provinces and the Punjab hardly any copper coin is seen but these dummy pice. No doubt, as commerce and trade become more developed, the people will realise the advantage of having a copper coinage to which the character of a legal tender attaches, but it would be quite unjustifiable for us to interfere with the actual current circulation of the dummy pice. It would be something like a revolution if some millions of villagers in the remoter parts of these districts were to wake some morning and find that the whole of their store of copper coin had become valueless, and that they could not make their ordinary day's purchases without rendering themselves liable to a prosecution under the law. To interfere with coin in such familiar use is far from our intention; but it would be equally unjustifiable if we were to permit private persons to engage in the manufacture of these pice for their own profit, and thus to interpose obstacles to that gradual process by which ultimately a better condition of coinage and currency will be attained in these places. As matters at present stand, the manufacture of these dummy coins is unfortunately not within the limits of the Penal Code. The reason is that, although the counterfeiting of coins is a severely punishable offence, coin itself is defined as 'metal used for the time being as money, and stamped and issued by the authority of some State or

Sovereign Power in order to be so used.' Dummy pice are not issued by the authority of any Government in order to be used as money, and, therefore, a person who makes coin of that kind does not come within the penalty attached to the offence of counterfeiting coin. It is possible that such coinage may come within some other section of the Penal Code, but it is assuredly proper for the Government, if it intends to suppress the coinage, to take up the matter directly, and to define the making of these pice as—what to all intents and purposes it is—a fraudulent fabrication of coin.

"Information has recently reached the Government from several places which makes it evident that this coin is coming to be manufactured and issued in several parts of India. The first information we received was from the Gya district. The district authorities brought to the notice of the Accountant General of Bengal that a local firm, calling themselves Jadu Roy, Ramgopal & Co., had established a factory for dummy pice and were flooding the district with them. They had actually issued a proclamation of which I have a copy in my hand, and which I shall read to the Council, as it shows the extent to which they had carried on the practice. The notice runs thus:—

"Notice is hereby given to the public that Messrs. Jadu Roy, Ramgopal & Co., having taken all necessary legal steps for the manufacture of Gorakhpuri pice, and having, on the 17th June, 1886, informed the District Magistrate of Gya the fact of such manufacture and sale, opened manufactory at Kandi Nawada near Gya, where they manufacture and issue the said pice of superior copper and equal weight to that of the current pice, and are now ready to sell the same to the public at the rates given below, and they beg at the same time to assure the public that the sale, purchase and use of their pice are not illegal and therefore not penal. Bazar rate for retail sale, and one pice more per rupee than bazar rate for wholesale."

"It will be observed that this notification gave it to be understood that these pice are being manufactured by these private persons under the authority of the Government. Of course, there was not a word of truth in that statement, but at the same time they must have discovered that the penal law was not sufficient to reach them. When their proceedings were brought to the notice of the Government of Bengal in December, 1886, that Government issued a proclamation stating that the manufacture was unauthorized, and that the pice would not be received in the Government treasuries or post offices. It was hoped—but I do not know how far the hope has been realised—that by this means the circulation of the pice would be stopped.

"A short time after this date the pice were found in the districts near Gya, namely, Shahabad, Sarun and Gorakhpur; and in some or all of these districts it was found necessary to issue a proclamation informing the people that these pice were not pice of legitimate manufacture, and would not be accepted in any Government treasury or institution. The operations of the firm seem to have extended still farther. In May, 1887, the Deputy Commissioner of Hissar, in the Punjab, reported that a local trader, Jai Ram Dass, had presented Jadu Roy's proclamation and solicited permission to commence a similar manufacture. And in July a Mr. Carapiet, of Mirzapur, solicited a similar permission from the Government of the North-Western Provinces, stating that he had heard that an authorized manufacture had been started in Gya and other places. The Magistrate of Mirzapur, to whom the application was referred for some enquiries, stated that he had received similar applications from other people, but, of course, had rejected them all. During the same months the Collector of Saharanpur brought to notice that his district was being flooded with dummy pice known as Mansuri pice, which he had reason to believe were manufactured at Jagadhri in the Ambala district and at Nayanagar near Ajmere. We could not stop the circulation, but we directed that the Mansuri pice should be refused by Government and railway officers and the municipalities, and we made enquiries regarding the alleged manufacture.

"About the same time information came independently from Ludhiana, from the octroi-collectors, that large quantities of the pice had been imported there under consignment to local traders, who were busy issuing them in large quantities. They were described as coming from Nayanagar near Gya, which appears to be a mixture of the names of two of the places of manufacture already noticed. The sale of these pice was going on openly, one trader stating that

he had disposed of Rs. 15,000 worth within a year. Moreover, there was also a local manufacturer whose name was Gauri, and whose issues received the name of Gauri-wala pice. Other pieces of information have reached us, but it is evident from what I have said that the trade is openly practised, and that the time has come when Government must choose between accepting it and putting it down.

"It is unnecessary to state here such elementary principles as that the State has the right to the profit accruing by the issue of token coin, and that moreover the State is bound, for the convenience of the people, to supply, for the purposes of circulation and exchange, coin that shall have the character of legal tender, and to protect them from coin which has not that character. The laws for the protection of coinage are in every country very severe. In India they are equally so, but, as already explained, they do not, as matters stand, reach corners of the kind to which I have been alluding. It is one thing to permit a people who are in a comparatively early stage as respects the development of commerce and trade to continue to pass from hand to hand the imperfect copper coin which has come down to them from before British times; but it is quite a different thing to allow people to set up within our own territory a manufacture for the purpose of perpetuating these imperfect coin, and not only to compete with the State in the exercise of a function which, in India especially, represents the sovereign power, but to appropriate a profit which properly belongs to the State generally.

"The facts which I have stated show that the same reasons which have led to the attachment in all countries of severe penalties to the unauthorized fabrication of coin compel us in India to penalize equally the fabrication of copper dumps intended to be used as coin.

"The opportunity of this Bill has been taken to improve the law relating to coinage in another point which the Government for some time has had in contemplation. In December, 1885, a man of the name of Jala Vijanand was found in Bombay engaged in manufacturing certain current Turkish coins which go by the name of ghazis. Complaints had for some time been made on the part of the Turkish Government that these coins had been imported into Turkey from Bombay, and there can be little doubt that this manufacture was connected with these complaints. Upon the trial which took place before the High Court in Bombay the whole of the facts were admitted, but the man pleaded that he manufactured the coins not for use in circulation but for use as ornaments. The fact that he was a working goldsmith by trade gave colour to this plea, and at all events he was pronounced not guilty.

"The law, as it stands at present, attaches a penalty to the counterfeiting of coin, but it defines this counterfeiting in this way. 'A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception or knowing it to be likely that deception will thereby be practised.' It is consequently incumbent on a Judge, trying a case like this in India, to leave to the jury the question whether it is sufficiently proved that the person charged with counterfeiting coin intended to practise deception, or knew it to be likely that deception would be practised. Under the law, however, as it stands in England the Judge would have instructed the jury that the facts, admitted by the defendant in this case, of themselves constituted an offence punishable with seven years' imprisonment. Suppose the circumstances had been reversed; suppose, for example, we had been receiving importations of rupees from Turkey; that some person in Turkey had been arrested in the open practice of the fabrication of these rupees, that he had been taken before a Turkish Court, and had there pleaded that he did not make the coin for circulation, but only for the purposes of ornament; and suppose the Turkish Court had been obliged to acquit him; one could easily imagine that we would have said many evil things of the insufficiency of the Turkish law or the incompetency of the Turkish Courts. It is obvious that the Turkish Government have the same cause of complaint against us as we under the circumstances stated would have against them; and, now that the defect in our law has been pointed out, we ought not to place ourselves a second time in the position of having to give the Turkish authorities

such an unsatisfactory answer as on that occasion we were obliged to give. We propose, therefore, to adopt in this respect the law already current in England and in Canada and to make the mere making of a similitude of any actually current coin a punishable offence."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill. He said:—

"As regards the first intention of the Bill, that relating to copper dumps, the third section is the principal one. It prohibits the making of pieces of metal intended or likely to be used as money, and attaches a penalty of three years', or on a second conviction seven years', imprisonment to the offence.

"The main difficulty in drawing the Bill has been to frame it so that no penalty should attach to the mere passing of dumps received in actual circulation. At the same time we cannot place ourselves in this position that, when a man is arraigned for manufacture, he should be able to escape by pleading that he only stayed outside and passed the coins into circulation while his brother manufactured them inside. We must attach a penalty to issue, but we carefully guard it in several ways. First, we define issue, not as passing on in circulation, but as initiating the circulation. We make 'issue' an offence not cognizable by the police, and require the authority of a District Magistrate before cognizance is taken of it.

"If we prohibit manufacture in India, we must also prohibit systematic importation, in merchantable quantities, of dumps manufactured (say) in Nepal or elsewhere. The ordinary law enables us to do this, but the fourth section of the present Bill provides a penalty similar to that for manufacture in India.

"It need not be said that any prohibition issued as here proposed will be carefully so worded as not to extend to persons who merely cross a frontier with a few dumpy pice in their pocket belonging to the circulation of the State from which they come.

"We deem it necessary to provide by the law that dumpy pice shall not be received by railway companies or municipalities. So far as the Executive Government is concerned, we do not receive dumpy pice in any Government establishment. Though we do not interfere with their circulation, it is our deliberate purpose to discourage them, and to draw a line of distinction between authorized pice of Government issue and dumps; and we do not think it right that public bodies, like municipalities, which are constituted by our law should be permitted to treat as lawful coin of the realm a coin which has no authority from Government, and is in many cases the produce of what we now stigmatize as a severely punishable offence.

"The last section deals with the question of the Turkish coins, and its wording is based upon that of the English law. It will be for the Select Committee to whom this Bill will be referred to consider the question whether the necessity for this section might not be avoided by a revision of the definition of 'counterfeiting' as it exists in the Penal Code. There are two points which have to be considered in matters relating to coinage. The first is the prevention of fraud, and the second the maintenance of a certain fixed standard of purity and genuineness. Now, as the law at present stands, there is nothing to prevent any one undertaking the manufacture of coin so long as the intention to defraud cannot be proved against him. That is to say, although we carefully provide a huge establishment at the cost of the State for the manufacture and maintenance of our current coin, and carefully provide precise and exact limits regarding the regulation and manufacture of coin on the part of the Government, we do not protect the monopoly of manufacture by subjecting to penalty any person who on his own account manufactures coin if it is meant to be good. It is true that private persons are not likely to undertake a business of the kind, as it is pretty certain to end in loss; but at the same time the privilege of coinage is a prerogative of the Sovereign Power, and the value of a rupee rests upon the assurance which people have that it has issued from our Mints, and from no other place. As I have mentioned, the law of England attaches a penalty to the

making of coin quite irrespective of any question of fraud, and we might do well to follow the example of English law in applying penal legislation to protect the purity and genuineness of our coin, as well as to guard against the fraud ordinarily implied in counterfeiting."

The Hon'ble MR. WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Protection of Inventions and Designs. He said:—

"Many communications have been received by the Committee or published in the Press regarding this Bill. We have endeavoured to give them all our attentive consideration, and I will now briefly state the alterations which we have thought it desirable to introduce. These alterations relate mainly to matters of detail, for we have determined to adhere to the main principle of the Act of 1859 as originally framed by Sir Barnes Peacock, under which the exclusive privilege springs into existence by operation of law and is not conferred by grant from the Crown.

"The first requisite of a patent, we have been told, is that it should be cheap. Inventors are often poor men, and are prevented from reaping the fruit of their ingenuity by the cost of obtaining protection. We have fixed a scale of fees in Schedule IV suited to the poorest purse. The term of a patent being maintained at fourteen years, we propose that the initial payments of ten rupees on filing the application and thirty rupees on filing the specification—forty rupees in all—shall secure the exclusive privilege for four years, a period sufficient in ordinary cases to determine whether the patent is worth maintaining or not. If it is, the inventor can retain it by annual payments of fifty rupees for the next five years and one hundred rupees for the last five years of the time. If he obtains an extension of the time, he will have to pay one hundred rupees annually. By omitting to make the payment he may abandon the exclusive privilege at any time, and his invention, *valeat quantum*, becomes available for the benefit of the public. In this way the inventor is made the judge whether it is worth his while to maintain his patent or not; and the fees are graduated so as to correspond approximately with the increasing value which the invention may be supposed to acquire as it becomes more generally known and used. By this procedure also patents for inventions of small value are speedily eliminated and cease to stand in the way of more valuable combinations.

"In the next place, as the consideration for every patent is the communication of useful information to the public, we have provided, in section 9, that the specification must describe the invention in such full, clear and exact terms that any person skilled in the art, process or manufacture to which the invention relates shall be able to make and use it without difficulty. This is the American rule, and is supported by a long series of decisions in the English Courts. To secure this complete description we provide that drawings or photographs must be supplied when necessary; and, objection having been taken to the expense of models, we propose that these shall be furnished only when especially required by Government. To ensure proper publication of the invention in India, we think that specifications should be filed not only in Calcutta, Madras and Bombay, but also in Rangoon, and such other places as the Governor General in Council may from time to time appoint.

"As litigation in regard to patents is frequently of the most vexatious and expensive character, we have provided that, when a plaintiff impeaches the validity of a patent under section 30, he may be required by the Court to give security for costs, and that the Court may add, as parties to the suit, any persons claiming an interest in the subject-matter. In this way, it is hoped, multi-

licity of actions may be avoided and frivolous applications discouraged. In like manner, we propose that, when application is made for the prolongation of the term of a patent beyond fourteen years, the Court may hear what is to be urged for or against the extension by any person interested in obtaining or opposing it. As there would be a manifest inconvenience in maintaining in India a patent which had expired in the United Kingdom or any foreign country, we have provided that when from any cause a patent ceases to exist in its country of origin it shall also come to an end in this country.

"With a view to encourage foreign inventors, we have provided that any act required to be done in regard to the obtaining of an exclusive privilege in India by an inventor may be done on his behalf by an agent duly authorised in writing; and, as it may be difficult for an inventor to protect his rights in a country of such extent as this, we have provided that he may assign them in any province or other local area as he may see fit. We have not thought it wise to adopt a suggestion that has been made that Government should maintain a special police for the purpose of discovering and punishing infringement of patents. The patentee must guard his own privilege: the duty of the legislature and of the Government is at an end when he is provided with reasonable facilities for doing so.

"In the part relating to designs we have made a few amendments of a subsidiary character.

"Surprise has been expressed in some quarters that this Bill does not, like its English prototype, deal with trademarks as well as with inventions and designs. Upon this point it may be sufficient to say that a Bill for the registration of trademarks was prepared in 1879 at the suggestion of the Bombay Mill-owners Association and the Bombay Chamber of Commerce, and abandoned in 1881 at the almost unanimous request of the mercantile community throughout the country, including the two Associations above-named."

DEBTORS BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Halliday be added to the Select Committee on the Bill to amend the law relating to Imprisonment for Debt.

The Motion was put and agreed to.

RESERVE FORCES BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved for leave to introduce a Bill to regulate Her Majesty's Indian Reserve Forces. He said:—

"The object of the Bill is stated in the title, but I may just mention for the information of the Council that in 1885, when the Government were engaged in various measures for improving the efficiency of the Indian Army, they determined, with the approval of Her Majesty's Government, to introduce into that army the system, which has been established some years with great success in the British Army, of what is known as the reserve system, under which soldiers are returned to private life on reduced rates of pay with the liability to be called upon to join their regiments in cases of emergency. It is considered that a system of this kind, which is unquestionably not only efficient but economical, is peculiarly adapted to the circumstances of the Indian Army, because that army is composed in a great measure of people drawn from the agricultural population, who ordinarily live in their villages, ready to be found, and to whom it is thought such a system would be peculiarly acceptable. I may mention that although the Indian Army is technically a long service army, inasmuch that every soldier is eligible for pension if he serves for a pensionary period, and is entitled to remain in the service until he has become eligible for pension, nevertheless, as a matter of fact, it is a short service army, so far that a great many of the soldiers take their discharge within from five to ten years' service. The reason for this state of things is generally supposed to be that these men, being agriculturists and having an interest in their lands, cannot conveniently absent themselves from their homes for long periods of service. But, although long service is not practicable for many of them, they are a class

of men who are military in their instincts and are quite ready to come for shorter periods; and it is hoped and believed that the attraction of a reserved rate of pay, carrying with it only the liability to be called upon for active service on emergency, as I have mentioned, will be acceptable to a large number of those men who now take their final discharge after short periods of service in the Army. I should mention that, although the reserve system was nominally introduced by notification about a year ago, practically not much progress has been made with it up to this time, in consequence, first, of a large part of the army being engaged in active service in Burma, and also because the Bengal Army has been undergoing a small augmentation, and until that is completed it is not possible to allow men to be drafted into the reserve. It was originally contemplated that the reserved soldier would be on the footing of a man on unlimited furlough, and that his legal status should not be affected by his going into the reserve on this condition. But on further consideration it was found desirable, following the practice in England, where a special Reserve Act has been passed, to deal with soldiers in the reserve also of the Indian Army in this country by a legislative enactment setting forth the conditions of service in the army reserve."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also introduced the Bill.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 24th February, 1888.

S. HARVEY JAMES,
*Secretary to the Govt. of India,
Legislative Department.*

FORT WILLIAM;
The 23rd February, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 3, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 24th February, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Bakhsh Singh Bahádur, K.C.I.E.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir Dinshaw Manockjee Petit, Kt.
The Hon'ble F. M. Halliday.
The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Maharájá of
Vizianagram.

DEBTORS BILL.

The Hon'ble Mr. SCOBLE presented the Report of the Select Committee on the Bill to amend the law relating to Imprisonment for Debt. He said:—

"As the Bill has been reported in a form substantially differing from that in which it was introduced, I feel it my duty to explain, as briefly as may be, the alterations which have been made and the reasons which prompted them.

"The origin of this measure is thus described in the Statement of Objects and Reasons published by my hon'ble friend Mr. Ilbert on the 9th June, 1886:—

'On the 17th November, 1881, a circular was addressed by the Government of India to all Local Governments and Administrations, stating that the Government of India had under consideration the question of amending the provisions of the Code of Civil Procedure bearing upon the question of the arrest of *pardánashin* women in execution of the decrees of Civil Courts, but that before coming to any final conclusion on the subject the Governor General in Council thought it desirable to deal with the larger question of abolishing imprisonment for debt, and for this purpose to enquire whether sufficient reasons exist for the continued maintenance in India of the present system. Local Governments and Administrations were accordingly requested to favour the Government of India with a full expression of their opinion on the matter.

'The replies to the circular disclosed much difference of opinion as regards the advisability of maintaining in India the present system of imprisonment for debt.

'In favour of the maintenance under existing circumstances of the present system of imprisonment for debt were the Madras Government, the Madras High Court, the Bombay Government, the Bombay High Court, the Calcutta High Court, the Calcutta Chamber of Commerce and the Trades Association, Calcutta (unless a change were accompanied by the enactment of a stringent bankruptcy law), the British Indian Association, Calcutta, the Board of Revenue, North-Western Provinces, the Punjab Chief Court, the Chief Commissioner of the Central Provinces, the Chief Commissioner of Assam (provided the law were so altered as to permit the issue of process against the person only after all means of realising the decree by process against property have been exhausted) and the Chief Commissioner and the Judicial Commissioner of Coorg.'

"On the other side were arrayed the Advocate General of Bengal, the Bengal Government, the Government and High Court of the North-Western Provinces, the Punjab Government, the Chief Commissioner of British Burma, the Judicial Commissioner of the same Province, the Recorder of Rangoon and the Resident at Hyderabad. Thus the preponderance of opinion was on the whole in favour of the maintenance of imprisonment for debt under the present condition of India, but a considerable and influential minority were in favour of its abolition.

"In the result, my learned friend, adopting the opinion that imprisonment for debt ought to be abolished, proposed that, 'having regard to the authority and experience of some of those who are opposed to a change in the law, and bearing in mind the immense diversity of circumstances and conditions which prevails throughout this vast peninsula,' the most prudent course would be to confine its application in the first instance to one province, the North-Western Provinces and Oudh, where the balance of authority, administrative and judicial, was in its favour, leaving it to the Local Governments, with the previous sanction of the Governor General in Council, to apply it to other provinces as they might see fit.

"The Select Committee have not been able to accept this view. They are of opinion that there should be uniformity of practice in regard to execution of decrees wherever the Code of Civil Procedure applies, and that it is the part of the Legislature, and not of Local Governments, to determine whether any, and what, changes should be made in that procedure. Bearing in mind Lord Macaulay's celebrated aphorism—'Uniformity when you can have it; diversity when you must have it; but in all cases certainty,' they have carefully examined the voluminous papers submitted to them with a view to ascertain whether any alteration of the law was called for, and whether men's minds were generally agreed as to the particular alteration necessary.

"Let me here quote Mr. Ilbert's summary of the present state of the law:—
'The present state of the law is this. Under the Civil Procedure Code a decree or order for the payment of money may be enforced by the imprisonment of the judgment-debtor. The Court has a discretionary power to refuse execution at the same time either against person or against property at the option of the creditor. When an application for execution of a decree is presented, it must, if it is not barred by efflux of time and is otherwise in order, be admitted, and then the Court must order execution of the decree according to the nature of the application. The Court cannot refuse to issue its warrant for the execution of the decree unless it sees cause to the contrary, and "cause to the contrary," as interpreted by the Courts, means some cause which deprives the decree-holder of the right to execute, or to execute against the party against whom execution is sought, or to execute in the mode prayed for.

'Thus, therefore, it may be clear that the debtor has property available for attachment, and that a warrant of arrest has been applied for from vindictive or other improper motives, and yet, if the creditor asks for a warrant of arrest, a warrant must issue. The debtor may be a woman, she may even belong to the class of women who by the law of this country are exempted from public appearance in Court, and yet, if the creditor says that he wishes to send her to prison, to prison she must go.'

"It appeared to the Committee that a state of the law under which the discretion as to whether a debtor shall be arrested and imprisoned or not rests not with the Court but with the creditor was wrong and ought not to be maintained. It has been well said that—'to arrest without enquiry is to punish the larger number of debtors because the smaller require to be coerced;' and it is easy to see how such a power is likely to be misused. The Committee accordingly examined the opinions before them with a view to ascertain whether such a modification of the law as would vest the discretion in the Court was generally desired.

"It would be wearisome to go through all the opinions received, but I will venture to quote a few of them. The Bengal Government wrote:—

'Honest debtors would have a sufficient protection if the Code of Civil Procedure were amended so as to give the Court the discretion of refusing applications to execute process against the person.'

"The Bengal Chamber of Commerce 'would like to see imprisonment, in default of satisfying a decree of the Civil Courts for money, fenced round so as to exclude its being used for malicious motives out of spite, or to satisfy feelings of hatred or revenge.' How this might best be done they say is a problem for those to solve who have proposed the new change in the law. But they suggest that the Judge, after hearing the statements on both sides, might decide whether it is or is not a case where imprisonment for debt might properly be resorted to.

"In the opinion of the Bombay Government,—

'The Courts should have the power to distinguish between the two classes of debtors, and to send to jail those who will not pay, or who, not having the means of paying immediately, refuse to enter into such terms as the Court considers fair and reasonable.

'His Excellency in Council would prefer a provision that upon an application for the arrest of any debtor the Court should cause the defendant to be brought before it, and should satisfy itself that he has not the means of discharging the debt either immediately, or in such manner and within such time as the Court may consider reasonable. If the defendant fails to satisfy the Court, the warrant for arrest should issue.

'The Court would generally be able to satisfy itself by examining the parties and any witnesses whom they might produce, both as to the present means of the defendant and his prospect of future earnings; and, in the event of immediate payment being impossible, it might in most cases substitute for the extortionate bond required by the creditor an order for payment by instalments (including reasonable interest) under section 210 of the Civil Procedure Code. The whole amount of the debt should be made payable immediately, on default of payment of any instalment, and in that event a warrant of arrest should be granted without further inquiry.'

"Mr. Justice West writes:—

'Looking to all the circumstances, a discretionary power should, I think, be given to the Civil Courts as to the issue of a warrant of arrest before the failure of other means of enforcing a decree, and there the legislature should, for the present, be content to stop.'

"The Advocate General of Bombay says:—

'No doubt there are cases, in which the power of imprisonment for debt is abused by the creditor, as may be said of all legal process; but I think that these cases would be fully provided for by an amendment of the Civil Procedure Code giving the Court power to refuse an order for arrest of a judgment-debtor or to make an order for his release after arrest in such cases as are provided by section 30 of the Presidency Small Cause Courts Act, 1882; and I think that such an amendment ought to be made.'

"Mr. Justice Brandt, of the Madras High Court, says, and Mr. Justice Parker concurs with him:—

'I should be in favour of an amendment of the provisions of the Code of Civil Procedure in this respect to the extent of vesting the Court executing the decree with full discretion as to whether it would allow process to issue for the arrest of the person of the judgment-debtor, before and until process against property has been issued and proved infructuous.'

"Acting upon the opinions thus expressed, the Select Committee have, in sections 2 and 4 of the Bill, provided that, when an application is made for the execution of a decree for money by arrest and imprisonment, the Court may issue, instead of a warrant, a notice calling on the debtor to show cause why he should not be committed to jail. If the debtor appears upon this notice and satisfies the Court that he is unable, from poverty or other sufficient cause, to satisfy the decree, the Court may release him; if he fails to appear or to satisfy the Court of his inability to pay, the Court may arrest and imprison him. As a guide to the discretion of the Court we have adopted the main provisions of the original Bill as to the circumstances a consideration of which may influence the Court in determining whether or not to exercise the power of imprisonment against a debtor. This is a point on which great differences of opinion may and do prevail, but, having regard to the fact that a man may be guilty of many of the malpractices mentioned without bringing himself within the clutches of the criminal law, the Committee has decided to maintain these provisions.

"It may be thought that this is but a slight alteration of the existing law, that under section 336 of the Code as it stands a debtor has only to inform the Court that he intends to apply to be declared an insolvent, and that upon declaring his intention so to apply within a month, and giving security that he will appear when called upon, the Court shall release him. But the alteration is important. Under the existing law the debtor comes before the Court in custody; under the proposed Act he may come as a free man. It is obvious that he will be in a far better position to prepare a statement of his affairs and to ask his friends to become security for him if he is at liberty than if he is exposed to the indignity and inconvenience of arrest and consequent imprisonment. This consideration applies of course to the honest debtor, whom alone we are concerned to protect: and it is surely fair that his poverty should not be made the occasion of aggravating his misfortune. On the other hand, it is only fair to give the creditor every reasonable facility for obtaining the property of his debtor; and experience seems to establish that in India at all events the remedy is not complete without the power of imprisonment in proper cases.

"One class of judgment-debtors, however, the Committee propose absolutely to exempt from liability to arrest and imprisonment for debt, and that is—women. This is in accordance with the views of the British Indian Association as to *pardānashin* ladies expressed in a letter to the Government of Bengal under date the 28th of June, 1882. 'The law,' they say, 'ought to be adapted to the peculiar circumstances of the country. The Committee submit that the Indian feeling regarding the sanctity of the *zanāna* is not a mere sentiment: it is bound up with the deeply cherished religious feelings and social usages of the people.' The proposal in the Bill is to render a woman's property alone answerable for debts incurred by her: we thus assimilate the position of all women to that enjoyed by some married women under Act III of 1874. That there is abundant ground for making this exemption general is clear from the papers which have been before the Committee. Although it may not be true, as stated by one officer, that 'it is almost invariably the female who is selected for imprisonment,' there is no doubt that a system under which, from want of better accommodation, respectable though poor women may be lodged in a criminal jail with thieves and prostitutes for their companions, is self-condemned. The only difficulty in the way of total exemption of women arises from the fact that a woman may, of her own motion or at the instigation of designing persons, institute a false and vexatious suit against an innocent defendant and go harmless if the suit is dismissed and costs are decreed against her. To guard against this we have provided in section 5 that, when a woman is sole plaintiff, the Court may, on proper grounds shown, require her to give security for costs.

"Section 9 of the Bill provides for the cancellation by the Court of an order for arrest or imprisonment in case of the serious illness or confirmed bad health of the debtor, and by the Local Government if he is suffering from any infectious or contagious disease: but a debtor released under these circumstances is liable to be re-arrested.

"The Select Committee has not adopted that portion of the original Bill which cast the burden of maintaining a debtor while in jail upon the State. Imprisonment being used as a means of compelling payment, it seems just that the creditor, who asks the State to assist him in obtaining payment by this means, should pay the expenses of the process. By retaining this obligation of the creditor to support his debtor while in jail, a debtor is not likely to be kept in jail longer than is necessary to convince the creditor that the debtor has no means of satisfying the debt.

"As originally drafted the Bill related to decrees or orders of Revenue Courts. The general consensus of opinion on the part of the officers and Administrations consulted was that the collection of revenue should not be made subject to the provisions of the Bill, and its operation as regards rent and revenue will extend only to decrees passed in rent-suits by Civil Courts or Courts regulated by the Code of Civil Procedure and to the collection of revenue under the rules of the Code, as in Bengal and Burma. With a view to assimilate the maximum time of imprisonment for rent-defaulters to that fixed for other civil debtors throughout India, we have recommended certain subsidiary amendments in Madras Act VIII of 1865 and the North-Western Provinces Rent Act, 1881.

"It only remains for me to thank the Council for the patience with which they have listened to these observations. But the Bill is one of great importance; and having regard to the alterations which have been introduced, I ask the Council to direct its re-publication. The effect of the Bill will now be to prevent the imprisonment of debtors who are paupers but not fraudulent; and to leave creditors the power of imprisoning debtors when a Court has been satisfied that such process may justly be resorted to."

The Hon'ble SIR CHARLES ELLIOTT said—

"I was not a member of the Select Committee appointed to examine this Bill, but, as the subject is one in which I have always taken the greatest interest, I think it right to venture to offer a few remarks on the subject for the consideration of the Council. When the proposal to abolish imprisonment for debt altogether was circulated for the opinion of Local Governments, I was not able, as the Hon'ble the Law Member has just stated, to support the proposal in its entirety, feeling that in the present condition of things the temptation which it would place in the way of debtors to fraudulently remove the whole of their property, or to transfer it to others, or to cause it to disappear, would be very great. But I pointed out the extremely unsatisfactory position in which the Civil Courts are placed from the fact that no discretion is allowed to the Courts in the case of judgment-creditors applying for the execution of decrees either against the property or the person of a debtor, and I urged that the law should be modified to the extent of allowing that discretion. I venture to think that the line which has been taken by the present Bill has very happily hit the proper medium between the more advanced proposal which was originally circulated and the provisions in the existing law which have been worked in a very objectionable way. But, though on the main point the Bill has been a very great improvement, I think there are certain other objectionable points in the Code of Civil Procedure which, if it had been in my power, I should wish to have seen changed along with this Bill, but which I have not had an opportunity of bringing before the Select Committee from the fact of my not being here at the time when this Bill was being considered. I think on that account I may venture to lay before the Council now the points which should, in my humble opinion, be taken into consideration whenever an opportunity occurs of amending the Code of Civil Procedure.

"The first point is with regard to section 342 of the Code of Civil Procedure. Under that section, if the decree is for a sum less than Rs. 50, a person can be imprisoned for six weeks; and, if it is for Rs. 50 or over, he can be imprisoned for six months. But I do not find it distinctly laid down what the exact sum is which is referred to as making up the Rs. 50; whether it is the decree for the original debt, or whether it is the decree plus the interest on the debt up to date and the costs which have been incurred since. Under section 235 the creditor when applying for execution has to state the amount of

debt due on the decree, and the interest, and the costs; and it is not clear whether section 342 intends that the whole of these three items should be considered to make up the Rs. 50 or not. The North-Western Provinces Rent Act, as mentioned in the concluding section of this Bill, expressly excludes costs and makes the term of imprisonment depend on whether the amount decreed, exclusive of costs, does or does not exceed Rs. 50. But I am given to understand that in most cases the Courts interpret this phrase to mean the original debt or the part of it remaining unpaid plus the interest and costs. Now, clearly the case may often happen—and I have practically found that it does happen—in which a decree may have been obtained for Rs. 45 and the addition of interest and costs in the case brings it to something over Rs. 50. So that the question whether the imprisonment should be for six weeks or six months depends entirely upon whether in such cases the costs are included in the decree or not. I venture to think it would be well if the Code were so amended as to lay down a uniform procedure on this point.

"The second point I wish to bring forward is with regard to the interpretation of the wording of the same section. The section runs as follows:—

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

"But some doubt exists as to whether the term should be the whole of six weeks or of six months, as the case may be, or whether in either case it may be a somewhat shorter period—whether the section is meant to be rigid or elastic. I believe the majority of the Courts interpret this section in the sense that it must be rigid, that is to say, when the law says that no person shall be imprisoned for a longer period than six months when the decree is for a sum exceeding Rs. 50, they hold that it means that every such person shall be imprisoned for a period of six months. That seems to me to be a perversion of the meaning of the words. During the course of my inspection of the Civil Courts in Assam I have found that in some cases Munsifs have taken one view, and in other cases they have taken the other. And it seems to me to be exceedingly desirable that the Courts should have power to say, 'Here is a debt of a little over Rs. 50 (say, Rs. 100); I will give the debtor two or three months' imprisonment for it, and not the full term of six months which the law provides.' If there is any opportunity, I think it will be well for the Code to be amended either to carry out the meaning I attribute to the section, or at any rate to make its meaning perfectly clear.

"The third point is with regard to the subsistence-allowance. The hon'ble mover has just informed us that a proposal has been made to the Committee that the cost of the maintenance of civil prisoners should be borne by the State. I am extremely glad to hear that the proposal has been rejected; for it seems to me to be a perfectly axiomatic principle that, if our jails and our jail-establishments are to be used as bailiffs by moneylenders for the purpose of collecting debts due to them, they should be compelled to pay the costs of such procedure. But the law does not say clearly that they should pay the whole costs of this procedure. There is no interpretation in the Act of the term 'subsistence', but I believe that, as a matter of fact, it is generally taken to mean simply food. An inspection of the schedules prescribed by the different Local Governments, in which they provide a scale of payment for debtors of different classes, will show that in almost every case for the poorest classes of debtors two annas a day is prescribed, which may be roughly taken as the minimum amount upon which a man can be fed. The Prisons Act (Act XXVI of 1870), which is in force in Assam, provides by section 36 that the clothing and bedding which are required for a civil prisoner may be charged against the creditor. No one who has inspected a jail in bitter cold weather, as I have in Assam, and has seen the state in which the extremely poor classes of debtors are left, can fail to doubt that this is a reasonable and merciful provision. But I go further and say that the creditor should be made to pay not only the cost of food, clothing and bedding, but also a share of the expense which the State has to bear in the watch and ward of the prisoners and also of the building and maintenance of the places in which they are kept. I think it would be well on a

future occasion if the law were so amended as to show that all this expenditure ought to be laid upon creditors and not upon the State.

"My fourth point arises when, having taken the prisoner through his term of imprisonment, we come to the conditions upon which he is to be released. The Code of Civil Procedure provides no form of warrant under which he is to be imprisoned. In the case of a criminal prisoner a specific form of warrant is laid down by law. And beyond that the Prisons Act provides that in the case of criminal prisoners jailors should keep a register of warrants, and a book shewing the names of prisoners and the date upon which each prisoner is to be released. In Bengal the Local Government provides for the same thing by its own circulars. So that in the case of criminal prisoners there is no possibility, except by direct fraud, by which a man can be kept in prison one single day beyond the term of his imprisonment. And it is our custom on inspecting jails to look specially at this register of the dates of release. It provides a page for each day of the year for many years ahead, and we there see the names of the prisoners who are to be released on each day, far ahead of the date of inspection; then we turn up the warrants and verify the register by the warrants. And in this way every inspecting officer who visits a jail sees that there is no possibility of the liberty of a prisoner being infringed for a day longer than his warrant provides. But it is strange that the law has taken no such tender care of civil prisoners. There is no provision which secures that a man shall be released at the time he ought to be let out. The form of warrant under which he is committed to prison is not fixed by the law but is laid down by the High Courts. The North-Western Provinces High Court has provided a form of warrant in these terms:—

'You are hereby required to receive the said prisoner and to keep him in custody for the term of _____, subject to the provisions of section 341 of the Code of Civil Procedure.'

"But the form of warrant issued by the Bengal High Court (unless it has been recently altered) does not contain any provision of this kind. It runs—

'You are required to receive _____ and to keep him in prison until the said decree shall be fully satisfied, or until the prisoner shall be otherwise entitled to be released according to the terms of section 341 of the Civil Procedure Code.'

"That is to say, it leaves the date of the release of the prisoner to be decided by the jailor, according to his knowledge of law and his interpretation of the Act; and that, I submit, is a power which should not be left to a man who is in the somewhat inferior position in which the jailors of minor jails usually are. I think it is necessary when the law is revised that the form of warrant should be prescribed in the Code, and that a similar provision should be made for civil as for criminal prisoners with regard to keeping up a release-book and a registry of warrants.

"Then, the last point I wish to bring forward is with regard to cases of insolvency. It is quite true that, under the wise amendments of the Bill now before the Council, these provisions will become of very much less importance than they have hitherto been. Hitherto they have been the sole protection of the pauper debtor against the malice or the rage of his creditor; whereas now the discretion of the Court is interposed and the creditor will not be allowed by the Court to use the Government jails as a means of wreaking his anger upon the debtor who is honest but who is entirely unable to pay. Still the provision for insolvency, as far as it remains, should, I think, be modified in one respect, namely, that at present a prisoner who applies for insolvency has to furnish sufficient security that he will appear when called upon. Now, the pauper debtor can never furnish security. Over and over again, when I have visited jails, I have found extremely poor prisoners lying in them for extremely small sums (say, for Rs. 10 or Rs. 20). I have asked them why they did not apply to the Court for an order of insolvency, and the answer was generally that they knew nothing whatever about it, that provisions of the law had never been brought to their notice: and afterwards, when measures have been taken to remedy this, the answer has been that the law requires them to find security for their appearance, and that they were quite unable to provide

any security; therefore that very small provision has completely frustrated the intention of the law with regard to the very class of debtors for whom it was intended. I think their cases should be taken into consideration and some remedy devised to prevent the procedure from being so ineffectual.

"These are the points which my personal experience of the administration of a province has brought to my notice. It is unfortunate that I was unable to bring them before the Select Committee, owing to the fact of my not having been in India, but last week I took the first opportunity I had to speak to the hon'ble member in charge of the Bill, and he informed me that, if I brought forward these points as amendments, they would necessitate so considerable a change in the Bill that it would be necessary to refer it back to the Local Governments, and therefore a whole session would expire before the Bill could be passed. Admitting, as I do, that the Bill is an extremely valuable one, I completely accepted the force of his objection, and the only thing I can do now is to give what publicity I can to the points which I desire to see amended in the Code of Civil Procedure, because, as I understand, in a very short time the amendment of the Code will be taken in hand, and I trust that, having brought forward the points in this way, they will be considered by the Select Committee and the Council."

The Hon'ble LIEUTENANT-GENERAL CHESNEY gave notice that at the next Meeting he would move that the Army Reserve Bill be taken into consideration.

The Council adjourned to Friday, the 2nd March, 1888.

S. HARVEY JAMES,

*Secy. to the Govt. of India,
Legislative Department.*

FORT WILLIAM;
The 29th February, 1888. }



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 10, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 AND 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 2nd March, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Bakhsh Singh Bahádur, K.C.I.E.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble Sir Dinshaw Manockjee Petit, Kt.
The Hon'ble F. M. Halliday.
The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Mahárájá of Vizianagram.

RESERVE FORCES BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved that the Bill to regulate Her Majesty's Indian Reserve Forces be taken into consideration. He said:—

"In introducing this Bill into Council a fortnight ago I explained that the object of it was, following the system in force in regard to the English army, to

establish a simple procedure to provide for the conditions of service of the men about to be brought into the Indian reserve force under measures lately determined upon with the approval of Her Majesty's Government. In ordinary course the Bill would have been referred to a Select Committee, and also to the different Local Governments and Administrations, who would have been invited to record their opinions on the Bill, and the Select Committee would not have proceeded to consider the Bill until those reports had been laid before it. Meanwhile, men passing into the reserve of the army under the conditions at present subsisting would, as a matter of equity, as soon as this Bill was passed, be given an opportunity of re-considering their position, and of electing or otherwise for the reserve under the new conditions. I mentioned to the Council in introducing the Bill that the army reserve measures had so far taken very little effect, partly because the army was engaged in active operations and consequently the men were not allowed to transfer themselves to the reserve, and also partly because the establishment of the infantry of the Indian army was not quite complete. But these causes which suspended the progress of this measure having now terminated, and there being reason to believe that much more active and considerable progress will shortly be made in the formation of the reserve, it is I think exceedingly desirable that all the men who draft into it should be subject at once to their final conditions, and that they should be spared the trouble of being called upon to join their regiments in order to have a new set of conditions explained to them and their assent or dissent obtained to them. That is the reason why it is very desirable that this measure should become law at once.

"The provisions of the Bill are of an extremely simple kind. It is very unlikely that reference to the Local Governments and Administrations would result in any substantial change or in any change even in the wording of the Bill; it may be observed also that the conditions established by it are of a more easy character as regards the soldier than those under which he is now serving in the reserve, inasmuch as that the penalties which the Bill provides in the event of a man failing to obey the summons when called upon to join his regiment are of a much easier and lighter nature than the penalties to which the man is now liable who, whilst on furlough, disobeys an order to join his regiment. So that it may be said that the soldier will gain rather than lose by the Bill becoming law.

"Under these circumstances I beg to ask that the Bill be now taken into consideration."

The Motion was put and agreed to.

The Hon'ble **LIEUTENANT-GENERAL CHESNEY** also moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned to Saturday, the 10th March, 1888.

S. HARVEY JAMES,
Secy. to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 5th March, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 17, 1888.

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

PART VI.

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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.

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PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K.C.I.E.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.
The Hon'ble W. S. Whiteside.
The Hon'ble G. H. P. Evans.
The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble F. M. Halliday.
The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Mahárájá of Vizianagram.

CIVIL PROCEDURE CODE, &c., AMENDMENT BILL.

The Hon'ble **MR. SCOBLE** presented the Report of the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877. He said:—

"Although this Bill is somewhat formidable in appearance, I do not think it will be found upon examination to contain much controversial matter. I am free to confess that I approached its consideration rather more than twelve.

months ago by no means with a light heart. The revision of the Code of Civil Procedure is not a matter to be readily undertaken by any one familiar with the working of the Courts and who knows from practical experience how easy it is to pick holes and how difficult it is to mend them. No one could be more averse than I am to what is called 'tinkering' enactments of this kind. But being confronted with an amending Bill on my arrival in this country, and overwhelmed with suggestions for still further amendments, I have had to deal with the matter, however reluctantly; and, with the assistance of the Select Committee, I hope to have produced a practically useful measure.

"As the Council are aware, the last edition of the Code was published in 1882. The six years which have since elapsed have brought to light some defects in its method, and some difficulties in its construction, which it is the object of the present Bill to remedy. The defects have been pointed out by the Courts which have had to administer the Code; the difficulties have resulted from imperfections of expression which have led different High Courts to construe the same sections in different ways. In dealing with this Bill the Select Committee has attempted no startling innovations, but has limited itself to the more modest, and, I think, more useful, task of making plain that which was before obscure, and supplying that which experience has shown to have been accidentally omitted or imperfectly expressed.

"At the risk of being somewhat tedious—for details of this kind, though important, are not interesting to a lay audience—I must ask the Council to bear with me while I point out the principal alterations effected in the Code by this Bill. Taking the sections in their order, the first to which I desire to call attention is section 3, which has been introduced on the suggestion of the Government of the North-Western Provinces and Oudh. The object is to preserve the summary character of rent-litigation under local laws; and it is justified on the ground that holding the provisions of the Civil Procedure Code to be applicable to the proceedings of the Rent and Revenue Courts, in all points which are not provided for in the special Acts governing those classes of Courts, may be the source of considerable embarrassment to the Administration, both by throwing impediments in the way of the easy realization of the rents from which the land-revenue is paid, and imposing increased labour on the Rent Courts whose time is already fully occupied.

"Section 5 relates to suits on foreign judgments. Upon this point there is a conflict of decisions between the High Courts of Madras and Bombay, which we have settled by declaring that Courts in British India shall not be precluded from enquiring into the merits of the case in which the judgment was passed by any Court in Asia or Africa, excepting only Courts established by the authority of the British Government in our colonies and dependencies. This will avoid the anomaly of placing the Courts of Siam or Cabul on the same footing as the Queen's Courts in Ceylon or Hongkong.

"Section 6 is intended to avoid a difficulty as to jurisdiction which frequently arises where the boundaries of estates or holdings are destroyed or altered by fluvial action.

"Section 7 is based upon a suggestion of Mr. Justice Straight, and makes it clear that, in order to found jurisdiction it is enough that a material part of the cause of action arises within the local limits of the jurisdiction of the Court in which the suit is instituted.

"The object of section 9 is to give to the Courts greater power of amendment of plaints than they at present possess. The tendency of the Courts in England is to allow the greatest latitude in this direction. In a recent case before the Court of Appeal (*Weldon v. Neal*, 19 Q. B. D. 395) Lord Justice Lopes says: 'However negligent or careless the first omission, and however late the proposed amendment, the amendment should be allowed if it can be allowed without injustice to the other side.' In this country, where, as the Advocate General of Bengal observes, 'there is every likelihood of a poor suitor acting in ignorance or under the advice of ignorant advisers, and launching an honest case in a clumsy and irrational manner,' it appeared to the Select Committee there was abundant reason for adopting the English rule. The only necessary limitation is to prevent a suit of one character from

being turned by amendment into a suit of a different character; and it is therefore provided that amendments which would have this effect are not to be allowed.

"Sections 10, 11, 12, 15 and 16 are intended to facilitate the service of summonses by an agency other than that of the Courts which issued them.

"Section 14 substitutes for sections 141 and 142 of the Code a simpler method of dealing with the documentary evidence produced in suits.

"Section 17 empowers the Local Governments to authorize selected Judges to take down the evidence in appealable cases in the English language. This section is regarded by the Bengal Government as 'perhaps the most important in the Bill,' and the Lieutenant-Governor believes that 'a cautious use of the power therein conferred will effect an enormous saving of time both in original as well as in appellate Courts.' District Judges are of the same opinion. Mr. Stevens, of Gya, writes—'It is scarcely possible to exaggerate the trouble, annoyance and waste of time which are frequently caused by the present mode of recording evidence;' and Mr. Towers, of Midnapore, says—'I believe the change would be a very salutary one in all District Courts, and probably in those of most Subordinate Judges, which are always situated at head-quarters, and the pleaders practising in which are good English scholars. For myself I believe I could do twice the amount of appellate work if I had a record of the evidence in English. In original cases also it will save District Judges much time and trouble to have but one record. The expense of translations in the High Court will also be much reduced, and there will be a very appreciable gain to litigants.' From Madras, Mr. Justice Parker writes—'These provisions have long been most desirable in the Madras Presidency. The present practice is as much disliked by the Bar as by the Judge, and causes great loss of time.' The Bombay Government, on the other hand, consider the alteration undesirable; and there would be much force in their observation that "Judges are of necessity frequently sent to districts with the language of which they are unacquainted, and in such cases it is not desirable that there should be no vernacular record of the evidence" if the proposal were absolute; but, as Local Governments may limit and revoke the exercise of the power as they please, it may surely be expected of them not to misuse the discretion with which they are invested.

"Sections 18 and 19 make it clear that the law does not require the re-hearing of a suit by the successor of a Judge who, having part heard the suit, has been prevented by death, transfer or other cause from concluding the trial; but that the hearing may be taken up at the stage at which it was left by the previous Judge, with liberty to recall and re-examine any witnesses from whom further evidence may be desired.

"In section 20 we carry out a suggestion of the Chief Court of the Punjab with regard to the award of interest on decrees for money.

"Section 21 is designed to bring equitable set-offs, which the Courts are in the habit of allowing, within the operation of section 216 of the Code.

"In section 26 we have empowered the Court executing a decree to determine questions as to stay of execution: and, as considerable difficulties have been felt with regard to the meaning of the word 'representatives' in section 244 of the Code, we have provided a procedure by which, in case of dispute, the representative of a party for the purposes of the section may be ascertained.

"There have been so many conflicting rulings of the High Courts upon the effect to be given to payments or adjustments of decrees which have not been certified to the Court charged with the execution of those decrees, that we have provided in section 27 that, unless such payment or adjustment has been certified as required by the Code, it shall not be recognized as a satisfaction of the decree by any Court executing the decree. This provision will, it is hoped, have the effect of inducing parties who settle out of Court to report to the Court that such settlement has been made.

"Section 28 brings the provisions of the Code in regard to the attachment of property in execution of a decree into accordance with recent legislation,

and removes a doubt as to the extent to which the salaries of certain classes of public servants are liable to be attached.

"Under section 320 of the Code, Local Governments were empowered to direct that the execution of decrees affecting immoveable property might be transferred, in certain cases, from the Court to the Collector; and subsequent sections provided that the Collector might sell, let or mortgage the property as might seem most desirable under the circumstances. The Local Governments were authorized to make rules for the guidance of the Collector and his subordinates in executing the decree; but no provision was made as to the authority to which an appeal would lie from orders passed by the Collector in exercise of the powers conferred on him. The High Courts of Calcutta and Bombay have expressed the opinion that the proceedings of the Collector should be subject to appeal to the District Judge and the High Court; but there is a Full Bench decision of the Allahabad High Court, with which the Select Committee concurs, to the contrary effect. We think it was the intention of the Legislature that any appeal from the orders of the Collector in matters of this kind should go to the superior Revenue-authorities. There are obvious reasons of convenience in favour of this course, and we have so provided in section 30 of the Bill.

"The most important clause in section 31 is that which provides that Chapter XX of the Code, which relates to proceedings in insolvency, shall not apply within the towns of Calcutta, Madras and Bombay. This provision has been introduced at the suggestion of the High Court of Calcutta, the Judges of which point out the inconveniences of the present dual system, and say that 'it seems to be quite unnecessary to have two different systems of insolvency law at work in the same place. The provisions of the Insolvent Act, though in many respects imperfect, are now understood by practitioners, and great confusion and uncertainty has in some cases arisen from the introduction of a new and more imperfect procedure.' As the question of amending and consolidating the law of bankruptcy and insolvency in British India is now before the Council, it seems desirable that the presidency-towns should, at all events for the present, retain the system to which they have for long years been accustomed. In regard to small insolvencies, moreover, I am in great hopes that they will be to a great extent got rid of when the Debtors Bill passes into law.

"The remaining sections of the Bill relate mainly to minor alterations. Sections 32, 53 and 66 extend the period during which the representatives of deceased suitors may apply to be entered on the record as plaintiffs or defendants. Section 33, restoring a provision of the Code of 1859, relaxes the stringency of the existing law respecting the dismissal of suits for default in giving security for costs. Section 34 enlarges the class of persons to whom commissions to examine witnesses may be issued, subject to such rules as the High Court may make in the matter. Sections 37, 38, 40 and 41 are to remove difficulties which at present beset ruling chiefs when they sue in our Courts.

"Section 44 is in accordance with the views of the Muhammadan Educational Endowment Committee, recently appointed by the Government of Bengal, and is intended to facilitate proceedings in suits relating to public charities. The Committee represent that it has been decided by a Divisional Bench of the Calcutta High Court (I. L. R. 8 Cal. 32) that the interest possessed in a mosque by those who live in the village in which it is situated, and are in the habit of worshipping in it, is not a direct interest within the meaning of section 539 of the Code. 'It would seem to follow that the real beneficiaries of a public trust, that is to say, those members of the general community who derive advantage from it in its ordinary operation, can seldom proceed under the section; while those whose interest in the foundation is more direct, as being entitled to share in its management, and who therefore can institute suits, are the very men who are likely to be guilty of malversation or other breach of the conditions of the trust. The Committee consider it most impolitic to deny the remedy to all except those who inflict the wrong, and would strike the word "direct" out of the section.' We have adopted this suggestion.

"Section 47 is intended to get rid of an anomaly which arises under the present state of the law in regard to the dismissal of appeals by default, and is proposed by Mr. R. J. Crosthwaite, the Judicial Commissioner of the Central Provinces, who writes as follows:—

'This amendment is necessary, because, as section 551 stands now, an appellant can, if his appeal is fixed for hearing under that section, refrain from appearing, and then appeal from the decree of the first Appellate Court dismissing his appeal. The Court of second appeal will then have to consider the appeal and decide it, because the provisions of section 556 do not apply in the case of an appeal dealt with under section 551. When a first appeal is dismissed under section 556 for default, there is practically no second appeal, because the second Appellate Court must hold that, as the appellant did not appear in the Court of first appeal, that Court's decree dismissing the appeal was under section 556 correct; but when an appeal is fixed for hearing under section 551, and the appellant not appearing, his appeal is dismissed, section 556 does not apply; and an appellant can thus ignore the Court of first appeal and take his appeal to the High Court. Section 556 does not, I think, apply, because there can be no doubt that the words 'on the day so fixed' mean 'the day fixed under section 552 for hearing the appeal.' This state of the law is anomalous, and, considering that a Court of second appeal is supposed to go by the findings of fact of the Court of first appeal, inconvenient. If an appellant does not appear on the day fixed for hearing, whether it be fixed under section 551 or section 552, his appeal should be dismissed; but he should have a right to apply for re-admission under section 558.'

"Upon the sections which follow from 48 to 59 I need not trouble the Council with any observations. But section 60 is of more importance. It embodies a suggestion made by the Judges of the High Court of Calcutta, who thus describe the difficulty which it is intended to cure:—

'In this province it is often difficult to tell whether a suit should be instituted in the Small Cause Court or a Court possessing ordinary civil jurisdiction. Numerous cases have been brought to the cognizance of this Court in which great inconvenience, hardship and injustice have been caused in this way. A suit is brought in the first instance in the Small Cause Court, and that Court declares that it has no jurisdiction and dismisses the suit. The plaintiff then institutes the same suit in the Munsif's Court, which, upon trial, gives him a decree. The defendant thereupon appeals to the higher Courts, and it is held that the Munsif had no jurisdiction, and accordingly the suit is dismissed. The result is that the unfortunate suitor gets no relief anywhere. And this same result also follows when the Court of first instance holds that it has no jurisdiction, and also when the suit is in the first instance instituted in the Civil Court and the suitor subsequently goes to the Small Cause Court. The Judges think questions of jurisdiction and errors as to jurisdiction should be susceptible of being dealt with and cured by the High Court by transfer, affirmation of decree or otherwise; and they think that the order of the High Court as to jurisdiction should be final.'

"I will not detain the Council by a detailed reference to the remaining sections of the Bill; but there is one important omission to which I desire briefly to advert. A recent decision of the Privy Council (*Raja Amir Hasan Khan v. Sheo Buksh Sing*, L. R. I. A. 237) has given a more limited construction to section 622 of the Code than had been put upon it by the Courts in India; and many suggestions have been made with a view to the extension of the revisional powers of the High Courts to all cases in which there had been a material irregularity in procedure or the decision was based on an erroneous view of the law. The Committee have not been able to adopt these suggestions, the more especially as they have been favoured with one by the Chief Justice of Bengal which would have the effect of doing away with second appeals altogether and substituting for them a right of application to the High Court as a Court of review in all cases in which it could be shown that a failure of justice had occurred. This suggestion, coming from so high an authority, deserves, and will receive, the most respectful consideration; but the proposal is of too sweeping a character to be hastily adopted, and the Committee did not think it desirable to delay their Report on this Bill for the purpose of consulting other authorities upon it.

"I have only to add that the draft has been twice circulated, in its original and in an amended form, to Local Governments and High Courts, and that the Bill as reported is the outcome of a most careful consideration on the part of the Committee of the criticisms which have been received from judicial officers and others engaged in the daily working of the Code, and therefore best able to

indicate the points in which it is susceptible of improvement. To these gentlemen I desire to tender my best thanks for the valuable assistance which they have rendered and which has, I hope, enabled the Select Committee to work out a series of amendments of the Code which will simplify and facilitate in many important respects the administration of justice."

The Council adjourned to Friday, the 16th March, 1888.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 10th March, 1888. }



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 24, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 16th March, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.
The Hon'ble Sir C. A. Elliott, K.C.S.I.
The Hon'ble J. Westland.
The Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K.C.I.E.
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The Hon'ble J. W. Quinton, C.S.I.
The Hon'ble R. Steel.
The Hon'ble F. M. Walliday.
The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Maharaja of
Vizianagram.

INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Protection of Inventions and Designs be taken into consideration. He said:—

"Since I presented the Report of the Select Committee on this Bill four weeks ago, I have had very few communications regarding it. Some suggestions have been made to which I will briefly refer.

"The first relates to the time given to foreign inventors within which to apply for an exclusive privilege for their inventions in British India. In the Bill this is fixed at one year from the date of the grant of the patent elsewhere than in the United Kingdom. It is urged that two and a half or three years should be allowed: but the Select Committee was distinctly of opinion that, in the public interest, one year was a reasonable time to grant for such applications, and I have therefore been unable to accept this suggestion. On the same ground I propose to retain the provision that when a patent expires in the country of its origin it shall also expire in India. Where the public interest and the interest of the inventor are in conflict, the former must prevail: and there seems no good reason why patents which have expired elsewhere should be kept alive to the disadvantage of the people of this country.

"It has also been urged that section 30, which allows 'any person' to apply to a High Court to quash an exclusive privilege upon certain specified grounds, ought to be limited to those classes of persons who are entitled to petition the Courts in England for revocation of patents under section 26 of 46 & 47 Vic., c. 57, that is to say, the Advocate General or any one authorised by him, or any person alleging that the patent was obtained in fraud of his rights, or that he was the true inventor, or that he had manufactured, used or sold the invention before the date of the patent. This point had not escaped the notice of the Select Committee, who preferred not to cut down the larger words of the Act of 1859, but to impose the condition that when an exclusive privilege is thus attacked the Court may require the attacking party to give security for costs, and in this way to put a check on vexatious litigation.

"I have therefore no amendments to propose in the Bill."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

MEASURES OF LENGTH BILL.

The Hon'ble MR. SCOBLE also moved for leave to introduce a Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India. He said:—

"This Bill has its origin in five communications from the Bengal, Madras, Bombay, Rangoon and Karachi Chambers of Commerce, asking that the English standard yard may be declared by law to be the standard measure of length for British India.

"The Bengal and Rangoon Chambers base their request on the general ground that it is anomalous that there should be no legal standard of length in this country while there is one in the United Kingdom, and that the absence of such a standard causes, in their opinion, 'difficulties in the working of the piece-goods trade of the country.' The Karachi Chamber's representation is in similar general terms, their main ground being that 'in the working of the piece-goods trade of this country a standard of length is essentially necessary for the protection and convenience of the same.' But the Bombay and Madras Chambers go more into particulars, and urge the fixing of a legal standard of length on the ground that, under the existing law, the marking of false lengths on cloth goods is not punishable, and ought to be made so.

"Without entering upon the question whether the existing law is sufficient to deal with cases of cheating by false measurement, I think it must be admitted to be desirable that some standard measure of length should be adopted, and that, by the adoption of such a standard, fraud will be at all events rendered more difficult than it is at present. This is not the first time that the question has been considered by your Lordship's Council. In 1870, Colonel Strachey introduced a Bill to regulate the weights and measures of British India, and described its object to be 'to adopt for India for the first time some fixed standard of

quantity where none had hitherto existed, and to place once for all on a definite basis the multitude of transactions of trade and commerce which till now had been left to be settled too often in a manner that placed the buyer at the complete mercy of the seller and gave the most objectionable openings to fraudulent dealings.' Unfortunately, as I think, the French metre was adopted in Act XI of 1870 as the unit for measures of length; but this Act was disallowed by the Secretary of State, and Act XXXI of 1871, which took its place, relates only to measures of weight and capacity.

"On looking through the report of the Committee which was appointed in 1868 to revise the system of weights and measures for British India, and which report was the basis of the legislation of 1870, I find it stated, 'with reference to measures of length, the English yard, foot and inch appear to be now used generally throughout British India;' and again 'in linear measure the Department of Public Works has done much to introduce our scale. The English yard has partially superseded the ever varying *gaz* of the Native dynasties throughout India. In all parts of the country people now use the English foot and inch, and hawkers sell their cloth by the English yard.' It is probable that, in the twenty years which have elapsed since these observations were written, English measures of length have become even more widely used, and that the statement of the Bombay Chamber of Commerce may be accepted that 'the English yard, with its subdivision of feet and inches, is now so generally known and used throughout the country that it forms by far the most convenient length for adoption.'

"The object of the Bill which I ask leave to introduce is to give a settled legal meaning to the words which denote these measures, and thus pave the way for future legislation on the lines of the Merchandise Marks Act, which came into force in England last year, and the main provisions of which appear to be quite as much needed in this country as at home."

The Hon'ble MR. STEEL said:—"The proposed legislation will be welcomed by the mercantile community. The Bill which the hon'ble member proposes to introduce is a small measure, but it is a necessary preliminary to further legislation. There is a general consensus of opinion that it will be soon desirable to legislate in India on the same lines as the Merchandise Marks Bill recently passed in England; but as that measure is of an extremely complicated character, and has already developed certain faults which will require amendment, there is a general agreement that it is not desirable to initiate hasty legislation in India. When full experience has been gained of the working of the English Act, and when it is decided to follow it here, the prior establishment of the standard measure will be found to have facilitated such legislation."

The Hon'ble RAJA PEARI MOHAN MUKERJI said:—"When the Government of Bengal a few months ago invited public opinion on the desirability of having a law for defining a standard unit of measure, it was apprehended in certain quarters that the intention of the Government was to supersede all local measures of length by a uniform measure throughout British India. The observations made by the Hon'ble the Law Member will remove that apprehension. The object of the Bill which he wishes to introduce is very different from what was at that time apprehended. Different provincial Acts defined the unit of measure which should obtain in the presidency-towns of Calcutta, Madras, and Bombay, but there was absolutely no law whatever declaring what was the unit of measure outside the limits of the presidency-towns. It is to fill the void in the Statute-book that I think the present measure is intended. Perhaps, looking to the discussions which took place in 1864, and to which the learned Law Member has referred, it would have been more desirable if the unit of the French metre had been adopted. But for the present at least we must, I think, be content with the standard measure which obtains in the United Kingdom."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in

the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 23rd March, 1888.

S. HARVEY JAMES,
*Secretary to the Govt. of India,
Legislative Department.*

FORT WILLIAM;
The 19th March, 1888. }



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 31, 1888.

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

PART VI.

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The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.

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The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

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The Hon'ble R. Steel.

The Hon'ble F. M. Halliday.

The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Mahárájá of
Vizianagram.

THE FALL OF FORT LINGTU.

On the members taking their seats, His Excellency THE VICEROY said:—
“Before we commence the proceedings of today it may, perhaps, be interesting
to the Council to know that Her Majesty's troops have taken possession of Fort
Lingtu without opposition. On the 19th they came upon a small stockade
erected by the Tibetans at which some opposition was encountered, but with
their usual gallantry our troops rushed it, and the enemy fled with scarcely any
resistance. The effect of this success seems completely to have disorganised

them, and, as I have already mentioned, they have abandoned their position at Lingtu. I am in great hopes that this slight and facile vindication of our treaty rights will in future free the road through Sikkim which had been blocked by the enemy, and will close this trifling dispute which has unfortunately arisen between us and the Tibetans."

DEBTORS BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to amend the law relating to Imprisonment for Debt be taken into consideration.

The Motion was put and agreed to.

The Hon'ble RAJA PEARI MOHAN MUKERJI moved that the following sub-section be added to section 10 of the Bill:—

"(3) The provisions of this Act shall not apply to suits under Act VIII of 1885."

He said:—"Several of the Local Governments and Administrations have reserved to themselves a special procedure for the recovery of their own demands of land-revenue. The Punjab, the North-Western Provinces, the Oudh, the Madras, the Bombay and the Central Provinces Revenue Codes provide for the imprisonment of the defaulter of land-revenue independent of the provisions of the Code of Civil Procedure. In Bengal the sunset law and the certificate procedure place perhaps larger powers in the hands of the Local Government as regards the enforcement of its revenue-demands. I do not for a moment contend that these exceptional procedures for the recovery of revenue-demands are open to any serious objection, but I do most earnestly contend that those who have to pay the revenue should not be deprived, except in cases of absolute necessity, of any procedure which the law has placed at their service for the recovery of rents from their tenants. The relations between landlords and tenants radically differ from the relations subsisting between ordinary creditors and their debtors. An ordinary creditor takes care to enquire into the circumstances of the person who wants to borrow, and satisfies himself of his character and of his solvency before he lends him money; whereas a landholder has to collect small sums of money from a large number of persons, a majority of whom are notoriously improvident. It is a case of involuntary creditorship in which the creditor has no power of preventing the contraction of bad debts. There is again the important consideration that, whereas an ordinary creditor in suing for the recovery of debt sues for money which belongs to himself, a large portion of the rents which a landholder sues to recover does not belong to himself, but has to be paid to Government. The legislature has, therefore, very properly given exceptional procedures for the recovery of arrears of rent to landholders in the North-Western Provinces, Oudh, Madras and the Central Provinces.

"The effect of the measure now before this Hon'ble Council would be to place the landholders of Bengal and Behar in a singularly difficult position as regards the recovery of arrears of rent. While their brethren in several other provinces will continue to recover their rents under the present procedure, the landholders of Bengal and Behar, who have been recently deprived of the power of distraining the crops of their raiyats without the intervention of the Courts and ejecting them for non-payment of rent, would be deprived of a procedure which, without causing the slightest hardship to the raiyats, imposed a wholesome check upon improvidence and wilful recusancy. The proposed change of procedure is the more objectionable as official statistics clearly show that it is only in an extremely small number of cases that rent-defaulters are actually imprisoned. During the last official year it was only in about 600 rent-suits out of more than 100,000 that judgment-debtors were imprisoned for default of payment. There is, therefore, absolutely no case made out why there should be a change in the law regulating the relations of landlords and tenants so soon after it has been most carefully and elaborately considered and settled. It is not that this question of procedure was not considered by the Council when the Bengal Tenancy Bill was under consideration. The suggestion of the Rent Commission that the landlord shall not be entitled to resort to any other process for the recovery of rent until he has first brought the tenure or holding of the defaulter to sale

was carefully considered and ultimately rejected. Unless, therefore, this Hon'ble Council were to amend the Bill in the way suggested by me, the proposed measure would have the effect of altering one of the most important provisions of the Bengal Tenancy Act."

The Hon'ble MR. HALLIDAY said:—"My Lord, I would ask for the indulgence of the Council to permit me to make a few remarks on the amendment just moved by my hon'ble friend—an amendment which I am unable to support.

"As I understand my hon'ble friend, he is opposed to the provisions of this Bill now before the Council being made to apply to suits under Act VIII of 1885, because, among other reasons, the zamindárs of Bengal, under the provisions of the Public Works and Road Cess Acts, are placed in the position that a large portion of the claim in rent-suits represents a sum which belongs to, and has to be recovered for, the Government, and not for the plaintiffs. Upon this point I think my hon'ble friend is holding an erroneous opinion.

"The proceeds of the road-cess are, under section 9 of the Cess Act, paid into the District Road Fund, and are applied to the purposes mentioned in section 109, which are mainly construction, maintenance and repairs of roads and bridges and other means and appliances for facilitating communications within the district or between adjacent districts, and the general control and administration of the fund is vested in a committee, formed under the principles of local self-government, chiefly of gentlemen who have the requisite qualifications as payers of the road-cess of the district, and whose interest on that account it is to exercise the closest scrutiny over the manner of the expenditure of that fund.

"It can scarcely be a correct assertion then that the road-cess belongs exclusively to the Government.

"The proceeds of both the cesses in question are exclusively expended on improvement of the means of communication and other works of public utility, and these have the effect of raising the price of agricultural produce in the producing districts.

"The zamindárs under the law are entitled to get, and do in fact get, a very large, if not the largest, share of the benefits of this rise in prices, by obtaining enhanced rents. It is indeed questionable whether in some districts in this province they do not receive by way of enhancement of rents the entire benefit of the rise in prices which results from improved facilities for communication, though under the law they pay only half the cost of effecting such improvements, as their raiyats pay the other half.

"I would urge then that the hon'ble member is mistaken when he says that the zamindárs receive no consideration whatever for the risk and trouble of collecting these cesses.

"They receive very great consideration in the enhanced rents to which they are entitled in consequence of the rise in prices which ensues from improvements in communications and from the general development of the province.

"I believe I am expressing the hon'ble member's own acceptance of the amount of the cesses in question in the province at the figure of 80 lakhs, and it seems to me that these figures go to prove that the zamindárs have not been slow to take advantage of the general development of the province by obtaining enhanced rents.

"The Cess Act is in force in 43 of the districts of Bengal, and in all but the one district of Backergunge the full rate of one anna in the rupee is levied.

"Now, if 80 lakhs represent the amount of these cesses, the rental of these districts must be at least sixteen times that amount, or, allowing for the half rates in Backergunge, the rental of these districts must be in round numbers 13 crores of rupees.

"Now, the Government land-revenue demand against these districts is three and three-quarter crores, or about one-fourth of the rental.

"When it is remembered that the permanent settlement was made on the supposition that the land-revenue represented nine-tenths of the rental,

while now it represents only one-fourth part of it at the lowest estimate of the rental, it will be apparent how much the zamindárs have profited by increase in rents, due in a great measure to rise in prices from improved communications, and it will be evident how little cause that class has for saying that they get no consideration for the road and public works cesses. No valid argument for exclusion of their tenants from the operation of the Bill before the Council can therefore be based on this ground.

"I would urge, my Lord, that, whatever grounds there may be for giving the Courts discretion to exempt judgment-debtors from imprisonment in the execution of decrees, these grounds apply with greater force to agricultural raiyats than to any other class; because I hold that the possibility and probability of abuse of the power of imprisonment is greater in the case of raiyats than in the case of any other class; and moreover, in the case of cultivating tenants, the landlord or his agent most certainly has, or ought to have, a full knowledge of the position and circumstances of a defaulting tenant, whether he is insolvent or not, able or not able to pay; while it may be said that the *banyá* or the *mahájan* is at a disadvantage in that he does not and cannot always know the circumstances of his debtors. It may not be fair perhaps to make the assumption *ab uno disce omnes*, but still I may be permitted to give a forcible example of the abuse of such power of imprisonment and of its mischievous consequences.

"The instance I give is that of a village in a pargana in a certain district in which it became the duty of an officer of Government to re-settle rents, and this instance, I understand, was typical of the way rents were enhanced by landlords throughout that pargana. Rents had been formerly fixed at Rs. 2-12 a bighá; the landlord had been demanding Rs. 5-2. The head raiyats, representing the body of the raiyats, refused to pay. The landlord prohibited the cutting of their crops; the raiyats sued and got damages for the illegal distraint; they also sued for leases at Rs. 2-12, and succeeded in their suits. The landlord's brother then sued them for the sum of Rs. 700 on a bond for money supposed to be lent, which bond was contested as forged. The Civil Court peons were intercepted. The raiyats got no notice of the suit; the first they heard of it was by being arrested in execution of decree, and they were imprisoned for three months. Then the other villagers collected a sum of money amongst themselves and paid up the amount due. The raiyats in question were thereupon released, but being, as they said, helpless, they submitted to the enhancement. This is an instance of one village only, but the results of a contest like this in one village strike terror throughout a pargana.

"I am afraid there can be little doubt that the abuse of the power of imprisoning raiyats for debt in execution of decrees has sometimes led to deplorable results in Behar and elsewhere, while it can hardly be seriously contended that the power of imprisonment is necessary in order to make solvent raiyats pay rents which they can and ought to pay but refuse to pay.

"Experience has shown me that the power of imprisoning raiyats is seldom had recourse to for the purpose of making them pay admitted or just demands, but it is often used to enforce prospective demands which are unjust, and in order to compel ignorant tenants to assent to illegitimate enhancements.

"When the law can be made an instrument of abuse the hour for reform has struck.

"I do not understand, my Lord, how any argument in favour of the exclusion of suits under the Bengal Tenancy Act can be based on the ground that the Tenancy Act deprived the Bengal zamindárs of the power of ejectment and distraining of crops.

"All that the Tenancy Act has done in these matters is to regulate the procedure by which distraint is to be made, and to define the conditions under which a tenant may be ejected, but it does not abolish the power of ejectment or distraint.

"But even were it otherwise, the retention of the arbitrary power of imprisonment, if bad in itself, cannot be justified on the ground that some other power formerly exercised by zamindárs has been curtailed or restricted."

The Hon'ble MR. QUINTON said:—"I must oppose the amendment. Throughout the greater part of British India, in Lower Bengal, in Bombay, in the Punjab, in the Central Provinces and in Lower Burma, the legislature has affirmed the principle that decrees in favour of landlords against tenants for arrears of rent should be executed in the same way and by the same processes as money-decrees in favour of other creditors.

"The Bill now under consideration modifies the law in respect to one of these processes, namely, imprisonment, as explained by my hon'ble friend Mr. Scoble on the 24th of February last, when presenting the Report of the Select Committee. Under the existing law any creditor who wishes to imprison his judgment-debtor has only to apply to the Court charged with the execution of the decree, and the Court, if certain preliminary formalities are complied with, must thereupon arrest the debtor, and, if he fails to satisfy his creditor, send him to jail. It has no option in the matter. It is true that the debtor has a partial remedy by which he may escape imprisonment, namely, by applying to be declared an insolvent, but the Select Committee were satisfied that this remedy was not resorted to to the extent which might be reasonably expected, and that from its nature it was not sufficient to meet the evil against which the Bill is intended to provide. This procedure is altered by the Bill in two important points—(1) women are not to be imprisoned at all in execution of money-decrees, and (2) in the case of male debtors, the option of imprisonment is to rest with the Court and not with the creditor.

"The amendment on the table asks the Council to make an exception to the Bill in favour of decrees passed under the Bengal Tenancy Act. The effect of the amendment will be that the landlords of Bengal will retain the power of imprisoning through the ministerial action of the Courts their tenants against whom decrees for arrears of rent have been given, while all other landlords throughout India and all other judgment-creditors in Bengal, as well as in the rest of the empire to which the Code of Civil Procedure extends, will be deprived of this power.

"I am quite willing to admit that the case of the Bengal zamindárs differs in some important respects from that of landlords in the greater part of the rest of India. In the first place, they are now paying a revenue that was fixed ninety years ago, whereas elsewhere the revenue now paid was settled within comparatively recent periods. Again, that revenue has been fixed for all time, whereas other landlords, less fortunate, know that their revenue will be liable to enhancement once in a generation. While in other provinces the revenue was fixed with more or less reference to the rent obtainable from the land, in Bengal there was no such canon of assessment, and the long lapse of time since the permanent settlement has operated to increase the difference between the aggregate amounts paid as rent and as revenue. In Bengal 90 or 95 per cent. of the tenants are said to be tenants with rights of occupancy and their tenures are saleable in execution of decrees for arrears of rent. In other parts of India the landlord has not commonly this security. The Bengal zamindár, in common with the landlords of the North-Western Provinces, Oudh, Madras and the Central Provinces, has the right of recovering arrears by distraining the crops of his tenant. It is true that this privilege must be exercised through the Court, but even with this limitation, which was advisedly imposed three years ago, the Bengal zamindárs are in a position superior to that of the Punjab and Bombay, where no such right of distraint exists at all. These differences between the relations of the Bengal zamindár to Government and his tenants and the corresponding relations of landlords in most other parts of India do not seem to justify the former in demanding exceptionally favourable treatment in the matter to which the Bill refers. They raise an *a priori* presumption that the Courts in Bengal should have the power, which we propose to give the Courts in other parts of India, of determining whether a tenant judgment-debtor should be sent to prison or not—a presumption not rebutted by anything that has fallen from the hon'ble mover of the amendment.

"The hon'ble mover has over-estimated the number of provinces excluded from the operation of the Bill. It is only in the North-Western Provinces and Madras that the procedure in collection of rent-decrees is not governed by the

Code of Civil Procedure. I would point out that the law as regards imprisonment in execution of rent-decrees in the two provinces already does very much what the Bill proposes to effect elsewhere. In the North-Western Provinces the Collector, by whom rent-decrees are executed, is not bound to send to jail a judgment-debtor who satisfies him that he has no *present* means of paying the amount of the decree; and in Madras a rent-defaulter is only sent to jail if there be no property to distrain or no saleable interest in the land, and if the Collector has reason to believe that the defaulter is wilfully withholding payment of an arrear or has been guilty of fraudulent conduct in order to evade payment.

"I am glad to observe that the hon'ble mover had no complaint to make against the law for the realization of revenue—a subject which is quite distinct from that of the present Bill; but, as pointed out by my hon'ble friend Mr. Halliday, the revenue of Bengal is about 25 per cent. of the rental, and the argument that no obstacle should be placed in the way of landlords realizing rent-decrees which constitute a large proportion of the money payable to Government as revenue comes with the worst grace from Bengal zamindárs, who in this respect are in a much better position than landholders elsewhere.

"The argument from statistics urged by my hon'ble friend seems to me to tell rather against him. The Bill in the opinion of the Select Committee should extend to all provinces where the procedure in rent-suits is regulated by the Code of Civil Procedure; and the amendment asks the Council to make an exception in favour of Bengal. It is urged that it is not worth while to make an alteration of the law in that province, as the cases in which imprisonment is resorted to are so few. But, if this be so, where is the necessity for treating Bengal in an exceptional manner? The burden of proving that it should be so treated rests on the supporters of the amendment, and by their own shewing the figures quoted prove that the alterations proposed by the Bill can have very little effect there."

The Hon'ble SYUD AMEER HOSSEIN said:—"My hon'ble friend having very ably advocated the cause of the zamindárs in support of his amendment, I beg, with Your Excellency's permission, to lay before the Council in a few words the other side of the question.

"We are to consider whether a raiyat should in respect of a debt covered by a rent-decree obtained against him by the zamindár be excluded from the benefit of the proposed law as regards the issue of a rule *nisi* before a warrant of arrest is issued against him. I feel no hesitation in saying that he should not be excluded from the benefit of this indulgent provision.

"The raiyat, of all debtors, should not be lightly sent to jail. As a factor in the food-supply of the country, he represents a class in whom the public generally are interested. His debt is practically a secured debt, the zamindár having the right to distrain his crops and to sell his tenure.

"If we go back to the provisions of the former Codes of Civil Procedure and the former Rent Acts and Regulations, we will find that there has been a parallel provision for the liability of a debtor in a money-decree and a debtor in a rent-decree to imprisonment in the execution of the same. But now that the legislature has thought it proper to give the debtors of money-decrees generally a chance to show cause against their arrest and imprisonment, I do not see why exception should be made against the debtor in a rent-decree.

"No honest and prudent zamindár would like to have an honest, though an unfortunate, raiyat locked up so long as he could have recourse to the other provisions of the Tenancy Act of 1885 for the realization of decrees in rent-suits.

"In the case of dishonest raiyats, the provision of section 4 of the Bill, by which the proposed law has been safeguarded, seems to me to be quite sufficient."

The Hon'ble Sir CHARLES AITCHISON said:—"I shall oppose this amendment. In the first place, the principle that in the province of Bengal the procedure in suits between landlords and tenants should be the ordinary civil procedure for the time being in force has been already adopted by the legislature.

We are all familiar with the history of Act X of 1859, which is a landmark in Indian legislation. By the provisions of that Act the jurisdiction of the Civil Courts was altogether barred in suits of the kind referred to in the amendment, which were made cognizable only in the Revenue Courts and under the special procedure laid down by the Act. Experience showed in a very short time that this was a mistake, and that in Bengal at any rate suits of the kind involve difficult questions of law and fact with which the ordinary Civil Courts were more competent to deal. Accordingly, after ten years' experience, the policy was reversed and the jurisdiction of the Civil Courts was restored by Bengal Act VIII of 1869, entitled *an Act to amend the procedure in suits between landlords and tenants*. Section 33 enacts that 'the jurisdiction of the Collectorate Courts to entertain such suits, save as regards any suits or proceedings then pending, shall cease, and all suits brought for any cause of action arising under Bengal Acts X of 1859 and VI of 1862 shall be cognizable by the Civil Courts according to their several jurisdictions.' And section 34 provided that 'suits of every description brought for any cause of action arising under the Act, and all proceedings therein, shall be regulated by the Code of Civil Procedure, being Act No. X of 1877, and by such further and other enactments of the Governor General in Council in relation to civil procedure as now are, or from time to time may be, in force; and all the provisions of the said Act and of such other enactments shall apply to such suits.' In Bengal, therefore, the special procedure in cases between landlords and tenants failed after trial, and the legislature expressly enacted that the procedure was to be the common procedure from time to time determined upon for ordinary civil suits. And this principle is still maintained. Section 143 of the Bengal Tenancy Act of 1885 gives power to the High Court, with the approval of the Governor General in Council, to make rules declaring that any portions of the Civil Procedure Code shall not apply to suits under that Act or shall apply to them subject to modifications; but the High Court has not yet seen fit to exercise that power. I can see no justification therefore for legislating now in a manner inconsistent with the policy deliberately adopted and followed for the last twenty years. There is indeed all the less necessity in that the High Court has power to prevent the application of any of the provisions of the general civil procedure which experience may show to be unsuitable.

"In the next place, except in the case of women, this Bill does not abolish imprisonment for debt, but leaves it to the Courts to determine whether or not imprisonment should be enforced. At present the Courts have no such discretion. Imprisonment depends upon the caprice of the creditor and not upon the merits of the case. The amendment, if carried, will still leave this power in the hands of landlords. Now, that the liberty of any subject of the Crown however humble, should be at the mercy of any man, however powerful or rich, even if the Court does not consider that the debtor should be imprisoned, is a state of things which ought not in my judgment to be tolerated by the laws of any civilized Government. The greatest of criminals even are not treated so, and it seems to me that Courts of justice exist for the express purpose of preventing the possibility of such things."

His Honour THE LIEUTENANT-GOVERNOR said:—"I, too, must oppose the motion of my hon'ble friend opposite. It seems to me that the landlord who wishes that the Bill which is now before the Council should not be applied to suits in which the judgment-debtors happen to be agricultural raiyats makes a proposal to limit the value of that law in the very point and with respect to the very classes in respect to which the law is likely to be most valuable, and in which in my opinion it is most seriously needed. The law does not prevent the hon'ble gentleman from imprisoning his defaulting raiyat. What it does do is to say that he should not imprison his debtor without first giving him an opportunity of being heard by the Court, and yet he would take away this small safeguard and say 'No, he must be imprisoned on my dictum and not on that of the Judge.' I say that the safeguard provided by this Bill is more needed in the case of agriculturists than in respect of debtors of other classes, and I say so for this reason: my hon'ble friend has himself pointed out in how few cases it has been found requisite absolutely to imprison judgment-debtors on

decrees for rent. Why then is it necessary to keep those sections of the old law as they stand? It is necessary as a most powerful reserve to those who apply a systematic method in harassing, worrying and finally breaking down those raiyats who combine to resist enhancement. The system by which monthly suits for arrears of rent are in very many cases in certain estates regularly introduced with the view of breaking down the opposition of raiyats was brought before the Council during the discussions on the Bengal Tenancy Bill, and I need not now refer to it further than to mention that the efficacy of that system depended upon the ability of the landlord to bring refractory raiyats to book by imprisoning them. The advantage is really immense to take a leader of the opposition and have him imprisoned without reference to what he may have to say before the Judge, and thus break down the opposition. Now, that is not a healthy state of things. The state of things proposed by the present Bill, by which a judgment-debtor may be afforded an opportunity to show before a Court of law why he should not be imprisoned, must be considered by everybody but the zamindars—I would believe by most of them also—to be a far more healthy state of things. It is not the case that the Bengal landholders are absolutely helpless in the way of reaching their judgment-debtors. It is true, as my hon'ble friend has pointed out, that the power of distraint is somewhat limited by the Bengal Tenancy Act, but, on the other hand, the power of sale is strengthened and legitimatised. The facilities which a zamindar who is a judgment-creditor now has of selling up the tenure of his defaulting raiyat is certainly a facility greater than is given by the laws of other provinces, and may well be set against the deficiency in point of distraint. For these reasons I must oppose the amendment of my hon'ble friend."

The Hon'ble RAJA PEARI MOHAN MUKERJI said:—"The liability to pay cesses to which the Hon'ble Mr. Halliday referred may, I think, be considered an additional ground on which this Hon'ble Council should support my amendment. Cesses belong exclusively to the Government; no part of them goes to the coffers of the landholders. On the other hand, it is admitted that most landholders have to bear heavy losses in collecting cesses for the Government on account of bad debts, desertions, deaths and other causes. The accusation that the zamindars want the present law because it places in their hands an engine for crushing their raiyats is based purely on sentiment, and it falls to the ground when it is seen that, during all these years in which the present procedure has been in operation, the landholders behaved in anything but a vindictive spirit in applying for the imprisonment of their raiyats for non-payment of rent. The great difference which the Hon'ble Mr. Quinton tried to make out between the profits of the landholders of Bengal and Behar and the landholders of other provinces is, I think, not borne out by facts. The question has been taken out of the region of controversy, and it is now a matter of bare reference to official records to determine what ratio the rent collected by landholders bears to the revenue collected by the Government. I am in a position to submit to the Council authoritatively the ratio which the revenue districts like Hooghly, Burdwan and the 24-Pergunnahs the ratio which the revenue bears to rent is very high. The fabulous wealth of the zamindars of irresponsible persons, should have no influence whatever on the hon'ble members of the Council in the consideration of this important question. I appeal to Governor referred to the practice of landholders recovering their rents by monthly instalments. That, I submit, was an unfortunate allusion. The Government zamindars were expected to recover their rents by monthly instalments, and the to pay their revenue to Government."

[His Honour THE LIEUTENANT-GOVERNOR—"I referred to monthly suits, not to the payment of rent by monthly instalments."]

"Suits for monthly instalments were extremely rare and should not be taken into account in the consideration of a general question like this; and the Gov."

ernment was not satisfied in recovering its revenue by monthly instalments, but they charged interest at 25 per cent. on all arrears of such revenue. His Honour also said that 'although the right of distraint had been in some measure taken away from the landholders, they had been given increased facilities for the sale of tenures and holdings.'

"I do not remember that any increased facilities whatever in that direction had been given to landholders by the Bengal Tenancy Act which they did not possess before.

"The Hon'ble Mr. Ilbert, in submitting the Report of the Select Committee, expressed his regret that, although one of the objects of the Bill was to give larger facilities to the landholders for the recovery of rent, the Committee had been unable to accept any of the suggestions which had been put forward for simplification of the procedure for the recovery of rent. The question of giving increased facilities for the recovery of rent by the sale of holdings and tenures was fully discussed; and it was at the instance of the Bengal Government that those provisions were excluded from the Bill, on the ground that they would lead to the creation of a class of middlemen to the injury of the cultivators of the soil—a supposition which has been since borne out by the events which have taken place in the Dekkhan, and the Sonthal Parganas in the territories under the Lieutenant-Governor of Bengal, where the introduction of the free sale of tenures and holdings had led the Government to put a stop to all sales of raiyati holdings. I submit, therefore, with great confidence that not a single argument has been adduced to show why Bengal and Behar should have an exceptional law for the recovery of rent by landlords from their tenants when the law in the North-Western Provinces, in Oudh, in Bombay and in the Central Provinces—in fact, in almost all the other provinces in India—is very different. The Hon'ble Mr. Quinton has said that the onus lies on me to show why Bengal should have an exceptional law favourable to the landholders. I submit that his assumption is wholly erroneous, as the effect of the present Bill, if it is not amended, will be that it will not touch imprisonment of raiyats for debt in most of the other provinces in British India, whereas it will materially alter the law which obtains in Bengal and Behar. I shall give a short summary of what the law is in other provinces. In the Punjab the revenue law provides for the imprisonment of the debtor. The rent law allows no imprisonment, but it provides that no right of occupancy can grow by lapse of time. In the North-Western Provinces the revenue as well as the rent law provides for imprisonment. In Oudh the revenue law provides for imprisonment, and the rent law provides for imprisonment subject to the provisions of the Code, but there landholders have this additional privilege that they can distraint crops of their own accord. In Madras both the revenue and the rent law provide for imprisonment of the debtor. In Bombay the revenue law provides for imprisonment of the debtor. In the Central Provinces the revenue law provides for imprisonment of the debtor, and landholders distraint crops of their own accord against all but 'absolutely' occupancy-tenants. The consequence will therefore be, if the present amendment is not carried, that in large portions of the rest of British India landholders will have the power of imprisoning rent-defaulters independently of the provisions of the Code of Civil Procedure, whereas in Bengal and Behar, where it is admitted that landholders require facilities for the recovery of rent, the law, as settled after most careful consideration, will be disturbed. The Hon'ble Sir Charles Aitchison observed that the Bengal Tenancy Act provides that the procedure contained in the Code of Civil Procedure should be the procedure in execution of decrees, unless the High Court sees fit to exclude any part of it from application to rent-suits, but there is no legal bar to any amendment of the Code of Civil Procedure, although it affects the procedure in execution of decrees in rent-suits. I submit that when the Bengal Tenancy Act was passed the legislature carefully excluded those portions of the Code of Civil Procedure as regards execution of decrees which they thought would be inapplicable to execution of decrees in rent-suits. I may mention that sections 305 and 320 to 326 of the Code of Civil Procedure are declared inapplicable to rent-suits not in the interests of raiyats but in the interests of landholders. And it was simply with a view to 'save the bulk of the Act swelling to large dimensions that the provisions of the Code of Civil Procedure which are applicable to the Bengal Tenancy Act were not bodily

incorporated in that Act. It would be, I think, assuming a state of things which was never intended by the legislature which passed that measure to suppose that important provisions affecting the relations between landlords and tenants could be similarly altered by altering the provisions of the Code of Civil Procedure so soon after that Code was passed by the Council."

The Hon'ble MR. SCOBLE said:—"With reference to one matter which has been referred to by the hon'ble mover of the amendment, I wish to state that I think he is in error regarding the procedure which is now in force in other provinces besides Bengal. I had a careful note prepared and submitted to the Select Committee as to the law which exists in the provinces of India generally with reference to the enforcement of decrees against rent-defaulters. I have that note now before me, and it fully bears out the state of the law as described by the Hon'ble Mr. Quinton. In the Punjab, Oudh, Bombay, the Central Provinces and in Lower Burma a rent-defaulter against whom a decree is passed is liable to imprisonment in execution of the decree under the Civil Procedure Code for the time being in force. If the Council today adopts this Bill, the provisions of the Civil Procedure Code in reference to the execution of decrees in rent-suits in those provinces will be those incorporated in this Bill. In the North-Western Provinces and in Madras the law is as has been stated by the Hon'ble Mr. Quinton."

The Motion was put and negatived.

The Hon'ble MR. SCOBLE moved that the Bill, as amended, be passed.

The Hon'ble LIEUTENANT-GENERAL CHESNEY said:—"I think the Select Committee and the Council may be congratulated on the passing of this Bill, which I regard as a very useful step forward in the direction of a more humane and equitable treatment of this branch of the law. My only regret personally is that the Select Committee has not seen its way to go still further in the direction of abolishing the law of imprisonment for judgment-debtors in the terms of the original draft of the Bill. My hon'ble friend Mr. Scoble, when presenting up the Report of the Select Committee, observed that the provisions of the draft Bill had been objected to by a majority of high authorities who had been consulted; he added further that there was a strong and apparently a weighty minority in favour of the more liberal provisions of the draft Bill. Of course, it will be understood that under the method and the procedure adopted by the Select Committee it was not open to him in a general way to do more than put into form the recommendations and opinions which the Select Committee had received from the authorities consulted, and, the majority having expressed their opinions against it, it was perhaps not open to the Select Committee to do otherwise than to act on those suggestions. At the same time I am not surprised to find that the general opinion of the majority of the authorities consulted was unfavourable to the full conditions of the draft Bill, because I think that it is a matter of observation that lawyers generally are opposed, and have in most times been opposed, to a reform in the law in the direction of making its provisions less severe. We may remember that when any modification or reform has been proposed in the criminal law of England, there have always been found great legal authorities to object to these reforms and to declare that if these severe penalties and conditions were modified there would be an end to all social obligations, as that, for example, if a man was not hung for stealing a sheep or a few shillings from the person, then all social and commercial business would come to an end; and so, in the various reforms which the law of imprisonment for debt has undergone, there have never been wanting authorities to protest that the particular reform would be followed by disastrous consequences to the commercial and revenue laws. Happily the result has always been that notwithstanding these reforms the business of the world has gone on as smoothly as before. The truth seems to be that in all these matters we are somewhat world is under great obligations to the Roman nation for their system of jurisprudence. That people, with their remarkable love of order and method, instituted a system of laws which was a vast improvement on the law which then existed in all other parts of the world, equally superior to the total absence of law

in despotic countries as to the fanciful and fickle procedure obtaining in the Greek republic, where the whole of the free people sat in judgment in a case both as judge and jury. It is not wonderful, therefore, that, as the world emerged from the barbarism of the middle ages, those who had the business of legislation adopted the Roman Code. And to that could be traced the extreme severity obtaining for many generations relative to the law of debt. Now, it is not surprising that the Roman law of debt was very severe, because it was more or less in keeping with their hard ideas of jurisprudence. Under their law the master or the head of the house had absolute power not only over his servants but also over his own children and the members of his family, and it is not surprising that men should be sold into slavery for not being able to pay their debts. The tradition of imprisonment for debt was a tradition handed down from those days; but in establishing imprisonment for debt one object of this imprisonment was lost sight of; when a man became a slave in the old days he could work out his redemption, whereas under the modern system the debtor was subject to useless imprisonment. However, the practice of life-long imprisonment for debt has happily been abandoned. First of all, the term of imprisonment was reduced to two or three years. At the present time it was six months and for small debts six weeks; but I regret to see maintained in the new measure the apparent inconsistency in this distinction between the penalty prescribed for small debts and that for large ones. I fail to see why a man should be liable to a greater punishment because the debt is greater in one case than in another. It seems to me that the penalty due depends entirely upon the nature of the case and not on the amount, and that a person with a small debt may be just as criminal as another person whose debt is large. However that may be, I think the proposals of the Select Committee are all good as far as they go and in the direction of wise reform, and that they may be accepted as a valuable instalment towards the completion of a process when—and I hope the time is not far distant—imprisonment for debt will be entirely abolished."

The Hon'ble MR. SCOBLE said:—"I wish to make one observation with regard to what has fallen from my hon'ble and gallant colleague, because I think it is of some importance as regards the functions of Select Committees. I cannot accept, on behalf of Select Committees of this Council, the statement that they have only to register the opinions of the majority of the authorities consulted. The function of the Select Committee is to sift those opinions, and to ascertain from them what upon a consideration of the whole matter is best suited to the circumstances of the country. Having come to a conclusion, it is their business to recommend it to the Council in the form best calculated to attain the object aimed at. I wish also to say one word in defence of my own profession, which has been, I think unjustly, assailed by my hon'ble and gallant friend. I may remind him that, if he will look into the history of law reform in the present century, he will find that the greatest law reformers have been lawyers. The names of Romilly, Brougham, Jervis, Campbell and Cairns are a few among the eminent men who have devoted themselves to the amendment of the law with an experience and a success which I venture to say no layman could have attained. If the Bill now under consideration does not accomplish as much as the gallant General could have desired, I am bound to say that it has been framed to meet the wishes of men of business, whom it most nearly concerns, rather than to gratify any conservative feeling that may be supposed to be entertained on the subject by the legal community."

The Motion was put and agreed to.

CIVIL PROCEDURE CODE, &c., AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to amend the Code of Civil Procedure and the Indian Limitation Act, 1877, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Hon'ble MR. EVANS said:—"There are a good many amendments of the Civil Procedure Code contained in this Bill. Some—in fact, the majority of them—arose out of difficulties in the construction of the existing Code which have been felt by the different Courts which have been administering the law. In many cases the Courts have not been able to agree as to the true construction, and something was necessary to be done to make matters clear. There is another class of amendments arising from the fact that certain matters are not provided for by the Code regarding which the Courts have found difficulties, and there is a general desire to have these matters provided for. Most of the amendments which have been made by the Bill do not now require any detailed remarks before this Council, as no amendments have been proposed, and I may take it that they are generally accepted by the Council. But there is one provision as to which there is a good deal of conflict of opinion, and I wish to make a few remarks in respect of that provision. I refer to the provision that Judges who have been selected by the Local Government should have power to take down the evidence in English although it may be given in the vernacular. Although there has been a good deal of difference of opinion as regards this matter, clearly the balance of opinion is in favour of making the change; and I think that in making the change we have met the difficulties which have been suggested by providing that this power should only be given to Judges selected by the Local Governments, who will no doubt have regard to the knowledge which the Judges have of the vernacular in certain places, and also to the knowledge which the pleaders who appear before such Judges have of English as well. In many cases there will be no difficulty in finding Judges who have such a competent knowledge of the vernacular that there would be little chance of error in the record of the evidence taken down by them. Where there might be a possibility of such error, if the pleaders have a competent knowledge of English, we may safely trust them to draw the attention of the Judge to the error if he has misinterpreted the evidence or taken down wrongly what the witness said; they are wary enough to do it, and the error would thus be corrected. The Local Governments will, I have no doubt, exercise the power given to them in a cautious manner; we have given to the Local Governments power to make the experiment. If it proves a success,—as I have little doubt it will,—it will be an enormous gain as regards the saving of time and the expense of making translations and the rapidity with which appeals can be brought to hearing before the higher Courts. It will enable the Judges to get through more work within a shorter time and greatly lessen the expense of appeals. Anything which will lessen the cost of obtaining justice from the Courts of law will be a measure of great imperial importance."

The Motion was put and agreed to.

At the conclusion of the business of the Council His Excellency THE VICEROY said:—"This Council will now adjourn *sine die*, and as it will probably not be my good fortune to preside again over so full a meeting, or in the presence of His Honour the Lieutenant-Governor of Bengal, I trust I may be permitted to express my deep sense of obligation to all its members for the assistance which they have given to the Government in the discharge of its legislative duties. I especially desire to tender my thanks to the non-official members, who have been good enough to sacrifice their time and pretermitt their private and professional pursuits in order to devote their energies to the business of the country, and to give us the advantage of their experience. I can assure them that, as representatives of an independent public opinion, and of those various important interests which form so large an element in the Indian commonwealth, my colleagues and myself have welcomed their presence with the greatest satisfaction. I also wish to convey to our Native colleagues my appreciation of the ability with which from time to time they have handled the various matters which have come up for consideration. The manner in which they debate the several questions under discussion in a language which is not their own has always been to me a matter of surprise and admiration. I have been equally struck by the good temper, the courtesy and gentlemanlike bearing with which they engage even in the warmest controversies. I think I may congratulate the Council on the very considerable amount of

work which has been done during the four sessions over which I have presided. The number of Acts which have been passed has been no less than 73. Amongst these may be mentioned the Bengal Tenancy Act, the Oudh Rent Act, the Provincial Small Cause Courts Act, the Indian Marine Act, the Punjab Tenancy Act, the Punjab Land-revenue Act, the Inventions and Designs Act, and last, though by no means least, the Debtors Act. It must always be remembered that the debates which take place round this table, and to which the public are admitted, form but a very small part of the labours of the Legislative Council, inasmuch as the time, thought and attention devoted to Bills in Committee are infinitely greater than that which the Council when assembled in its full numbers is required to give them. It is true the Acts I have enumerated do not belong to that category which excite abnormal and universal attention throughout the country, but they have not for that reason been the less beneficent in their operation. In fact, if we regard our land legislation alone, as it affects Bengal, Oudh and the Punjab, it will be found that the labours of this Council have contributed vastly to the security, happiness and content of many millions of our fellow-subjects. I have also especially to express my thanks to the Legislative Department, and I shall always remember with gratitude the industry and devotion which Mr. Ilbert and Mr. Scoble, assisted by Mr. James, have given to the preparation of those various Bills which have eventually secured the assent of the legislature. Neither their colleagues nor the general public have any adequate idea of the amount of thought, correspondence, labour and research which are necessary before a Bill can be brought up for the consideration of the Council. I am glad to be able to add that experience has proved—and a sufficient time has now elapsed to justify the statement—that the legislation upon which we have been engaged during the last four years, whatever opinions or doubts existed at the time, is now admitted to have been necessary and desirable, and to have worked advantageously in the interests of those for whom it was initiated."

The Council adjourned *sine die*.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM ; }
The 26th March, 1888. }



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 14, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT IN THAT BEHAF.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 11th July,
1888.

PRESENT:

His Excellency the Viceroy and Governor-General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble G. R. Elsmie.

NEW MEMBER.

The Hon'ble MR. ELSMIE took his seat as an Additional Member.

METAL TOKENS BILL.

The Hon'ble MR. WESTLAND moved that the Bill to prohibit the making
or issue by private persons of pieces of metal for use as money and the
making of coins in resemblance or similitude of coins of Foreign States be
referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble
Sir Charles Aitchison, the Hon'ble Mr. Elsmie and the Mover.

The Motion was put and agreed to.

MEASURES OF LENGTH BILL.

The Hon'ble MR. SCOBLE moved that the Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India be referred to a Select Committee consisting of the Hon'ble Sir Charles Aitchison, the Hon'ble Mr. Westland, the Hon'ble Mr. Elsmie and the Mover.

The Motion was put and agreed to.

TOLLS VALIDATION BILL.

The Hon'ble MR. ELSMIE moved for leave to introduce a Bill to remove doubts as to the legality of the levy of certain Tolls. He said :—

“The advisability of passing a brief measure for this purpose was suggested by the Government Advocate of the Punjab, whose attention was drawn in the course of his duties to the question whether Acts VIII. of 1851 and XV. of 1864 were in force in that province. The decision of that question turns upon certain considerations of a technical nature, and both lawyers and judges might well differ as to the view which should be taken. In an appellate case decided by the Chief Court of the Punjab in 1883, judgment was given on the assumption that Act VIII. of 1851 was in force. Later, however, in a case in another Court the question was subjected to more detailed examination, and the Government Advocate came to the conclusion that, whatever the correct view might be, the matter was one which involved a certain degree of doubt which it would be well to remove in respect to all future collections of tolls. The opinion of the Government Advocate has after full consideration been accepted both by the Local Government and by the Government of India, and a Bill has been prepared the object of which is to validate the past and future levy of tolls in the Punjab under Acts VIII. of 1851 and XV. of 1864. The opportunity has also been taken to confer in express terms on the Lieutenant-Governor of the Punjab and the Chief Commissioners of Burma, the Central Provinces and Oudh, and on the Local Government of any other province in which the Acts may for the time being be in force, the authority which is conferred on the Governor of Fort St. George in Council and the Lieutenant-Governors of Bengal and the North-Western Provinces by section 2 of the Act of 1851, and to declare the word ‘Presidency’ in section 8 of the Act to mean the territories under the administration of a Local Government.”

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also introduced the Bill.

The Hon'ble MR. ELSMIE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 25th July, 1888.

S. HARVEY JAMES,

SIMLA;

Secretary to the Government of India,

The 13th July, 1888.

Legislative Department.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 28, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 25th July, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble G. R. Elsmie.

INDIAN TELEGRAPH ACT, 1885, AMENDMENT BILL.

The Hon'ble SIR CHARLES ELLIOTT moved for leave to introduce a Bill to make an addition to the Indian Telegraph Act, 1885. He said :—

“The Statement of Objects and Reasons explains that the object of this Bill is to remedy an oversight.

“The nature of that oversight is this. The officials of the Telegraph Department have to enter occasionally on private property for the purpose of setting up telegraph posts, and may have to do damage to private property, chiefly in the way of cutting down trees, in order to clear the line for their telegraph wires: and it was necessary in the Telegraph Act to provide that certain officials should

have power to authorise this entrance on private property, and to assess the damages payable to the owners for the injury done.

"In the first draft of the Telegraph Act the words used were that these officers should be such as the Local Governments should appoint; but eventually, with a view to greater precision and definiteness, it was decided that it would be better to specify those officers by their titles, and in the Act as finally published it was provided that the powers in the first class of cases should be exercised by the Magistrate of the district, and in the second class of cases by the District Judge. It was, however, overlooked at the time that there were certain areas, namely, the three presidency-towns, in which no District Magistrate existed, and that in these and also in Rangoon no District Judge exists. This is the oversight which it is now necessary to remedy, and it is proposed to do this by providing that in the three presidency-towns the Commissioner of Police should exercise the powers of a District Magistrate, and that the Chief Judge of the Small Cause Court should exercise those of a District Judge. In Rangoon the latter powers are to be exercised by the Judge of the Small Cause Court. These proposals have been circulated among the Local Governments and Local Administrations concerned, and they have all agreed that these are the proper officers to exercise such powers."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES ELLIOTT also introduced the Bill.

The Hon'ble SIR CHARLES ELLIOTT also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

SALT-DUTY BILL.

The Hon'ble MR. WESTLAND moved for leave to introduce a Bill to regulate the payment of duty in respect of Salt where there has been an alteration of the rate of duty payable in respect thereof. He said :—

"It is important to explain, in the first place, that this project of law has no connection with any present intention of altering the rate of the salt-duty. It is brought forward to correct certain inequalities in the existing law which made themselves evident at the time of the change of the salt-duty in January last. The intention to remedy these inequalities by legislation was formed in January last, but it was considered inadvisable to take up the subject until trade had resumed its natural course and the question could be discussed both by the Government and by the salt-traders as one that had no reference to existing facts or existing intentions.

"It is to be noted that the moment an increase in salt-duty is announced the immediate effect is to send up prices by the full amount of the duty; because it is obvious that any holder of salt on which the lower rate of duty has been paid, if he wants to realise the higher price, has only to hold back his stock until the more highly taxed salt comes into consumption. The consumer therefore has immediately to pay the new rate of duty. Now, by the operation of an existing provision of law, namely, the proviso to section 37 of the Sea Customs Act of 1878, we are obliged to continue to levy the smaller rate of duty only upon all salt that is at sea at the time the enhancement of duty is announced. The consequence is that those who happen to be the holders of that salt are by this artificial arrangement of the law—and not by any natural operation arising out of the course of trade—placed in such a position that they can realise the enhancement of duty from the consumer without having in their turn to pay the enhancement into the treasury. I believe I am correct in saying that mercantile opinion, or at all events some very adequate exponents of mercantile opinion, consider that this proviso to section 37 works unequally even in its effect upon ordinary customs-duties, and that it is in no way necessary to make the concession to holders of goods at sea that they should be able

to import them at a favoured rate of duty. But the difference in the case of other goods is a very small one, and at most the treasury only temporarily gives up a small amount of the leviable duty to prevent loss to importers who may have made contracts for sale on the basis of the old duty. But the case of salt is quite different; in the first place, the amount of money at stake is enormously larger, and the proportion of the possible enhancement or decrease of duty to the value of the article ex-duty is very much greater; and, in the second place, the custom of trade—at least in Calcutta, which is the principal port of importation—is such that the holders and buyers of salt at sea, when they sell or buy to arrive, are unaffected by any change which may be made in the rate of the duty before their salt arrives, and thus do not incur the loss from which it was the object of the proviso to save them.

"The grounds therefore on which this proviso is based, even if they be admitted to be just in respect of other articles, have no application to the case of salt; and there is no reason whatever why we should not, in the case of enhancement, claim for the treasury the full increase of the duty which the consumer has to pay. In fact, I may say in stronger terms that, the special conditions imposed by us upon the salt-trade being such that from the moment of the announcement of an enhancement of duty the consumer has to pay at the fully enhanced rate, we have no business to maintain an entirely exceptional provision of law by which the enhanced duty which the consumer pays goes into the pockets of some private individuals instead of into the coffers of the State.

"The first and main object of the proposed legislation is therefore to apply to the levy of duty upon sea-borne salt a more equitable system than that by which we found we were bound when we enhanced the duty in January last.

"When we alter the rate of duty on salt we can of course do nothing in respect of existing duty-paid stocks. Those who hold such stocks reap the full amount of profit when we enhance the duty; but against this they run the risk of loss when we diminish the rate. These two chances are the ordinary chances of trade, and they must be set against each other; in fact, they tend, on the whole, to the gain of the trader; for, whereas he necessarily reaps the full benefit when enhancement takes place, he does not sustain the full loss in case of diminution of duty, because the prices, as a matter of fact, take a little time to find their new level.

"The general rule to be aimed at in the case of salt, as in the case of other taxed articles of consumption, is that the duty should be taken at the rate in force at the time when the trader takes the salt into his selling stock. He is not obliged to take the salt into his selling stock till he wants it for sale, and therefore he is not obliged to pay duty until the prices are such that he can realise it from the consumer. We intend by the present Bill to apply this rule generally to sea-borne salt in the same way as it is already applied to salt manufactured under license from Government.

"This same rule we at present apply, and by the present Bill continue to apply, to salt manufactured and sold by the Government in the cases in which the purchase is made at the place of manufacture.

"But it is found necessary to make a special legislative provision with reference to the system of levy of duty on salt manufactured and sold by the Government. In order to give every facility to the salt-trade a system of through-booking, as it is called, has been established, by which salt-traders, paying price and duty into any treasury of the Government, can have salt forwarded to them by the officers of Government who are in charge of the manufacture. It is an obvious necessity of this system that the duty is received by the Government at least a day or two before the salt can be delivered. Now, an announcement of change in the rate of duty, and especially of an enhancement, must, notwithstanding what is said by our critics in the public Press, be made suddenly and without any notice. This is the provision of the legislature, and it is obvious that the result of any forewarning would be that during the period of notice the salt-merchants would buy from Government all the salt they

could lay hands on; and, as prices must at once rise (as I have already explained), the consumer would have to pay the enhanced duty into the pockets of the merchants and not into the treasury. It is surprising that our critics, when they claim that any project of enhancement of salt-duty should be announced and discussed like ordinary projects of law, should fail to realise such an elementary piece of political economy.

"Now, this sudden announcement being unavoidable, it necessarily catches some of the traders between the time they have paid in their money to Government and the time they can obtain delivery of the salt.

"In 1882, when the duty was lowered, these traders claimed that, not having obtained the salt before the new and lower rate was in force, they should obtain from the Government a refund of the difference between the rate in force at the time of payment and that in force when they obtained the salt. But in 1888, when the duty was enhanced, they claimed that, having paid the duty when the rate was low, they were entitled to obtain their salt as agreed upon and without any further payment. We were obliged to admit both these contradictory claims, the former of grace and from a feeling of justice, and the second because we believe it was technically a sound one. These claims, and our admission of them, were caused by the fact that there was no specific provision of law suited to the circumstances; and therefore, when merchants paid their duty into the treasury, there was no specific understanding as to the conditions under which the payment was made.

"The proposed Bill remedies this defect, and establishes an understanding in this matter on what we think is an equitable basis.

"On the one hand, in case of an enhancement, the trader may reasonably consider that when he has paid his duty the contract with Government is complete, and he is entitled to receive his salt without more ado; and that it is not through his fault, but is the result of delay in arrangements established by the Government, if he does not receive delivery of salt before the enhanced duty comes into operation.

"On the other hand, if we say that the duty is to be levied at the rate in force at the time when the money is paid into the treasury, we obviously, in the case of a diminution of the tax, place the payer at a disadvantage compared with those who have paid their money at the place of manufacture. He will feel that, if he had only arranged to pay the duty at the place of manufacture at the time he wanted the salt, instead of paying it at a distant treasury, two or three days before he wanted it, he would have obtained the benefit of the diminution.

"Now, it is to our advantage to give every facility to the salt-trade, and therefore it is not to our advantage to impose any comparative disability upon those who desire to use the system of through-booking. We therefore propose to make for this case the special provision that, if a trader pays his money into a treasury, and if within three days thereof, and before he gets his salt, the rate of duty is diminished, he will get the benefit of the diminution. With ordinary diligence on his own part he can always get his salt delivered to him at the works within three days, and therefore, if he chooses (as some salt-traders occasionally do) to pay his money into the treasury more than three days before he wants his salt, and then lies by, we give him no advantage but put him in the same position as the merchants who have added to their selling stock before the time of the diminution of duty. So also we give him no advantage in respect of the salt he actually receives before the diminution comes into effect. But, so far as he has paid the duty within three days of the diminution and not received his salt, we consider he may fairly claim that the fact of his paying the undiminished rate instead of the diminished arises from his having taken advantage of the terms offered by Government under the through-booking system, and that he should be saved from any loss thereby.

"When the terms, based upon these considerations, are thus definitely laid down in the law, the trader will be able to regulate his business in accordance with them, knowing exactly what risks of loss by diminution of duty are before him, and what chance of gain by its enhancement.

"As I said when I began, the Bill must be regarded as one of perfectly general application. It is introduced for the purpose of defining more accurately the conditions of the trade with reference to the duty, and not with any intention of paving the way for any measures at present in contemplation. I am obliged, in explaining it, to make continual reference to enhancement and diminution of the salt-duty; but my references, I repeat it, are purely theoretical, and I hope in the one case, and fear in the other, that it may be a long time before the present Bill has any practical operation."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill.

The Hon'ble MR. WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

CONTAGIOUS DISEASES ACTS REPEAL BILL.

The Hon'ble SIR CHARLES AITCHISON moved for leave to introduce a Bill to repeal certain enactments relating to Contagious Diseases. He said:—

"My Lord,—In asking leave to introduce a Bill to repeal the Indian Contagious Diseases Act of 1868 I may explain that the object is to remove from the Statute-book an Act the operation of which has been already withdrawn from all places in British India and is not likely to be again brought into force. Fortunately it is unnecessary in this connection that I should advert to the controversies which have raged round the question of Contagious Diseases Acts both here and in England; and a brief reference to the circumstances which have led to the suspension of the operation of Act XIV of 1868 will best illustrate the position which the Government of India has taken on this question so far as it affects the civil population of the country.

"Act XIV of 1868 has always had a very restricted application. Its primary object, as explained by the Hon'ble Sir Henry Maine when he moved for leave to introduce the Bill, was 'to prevent the spread of venereal disease in the maritime towns of British India, and if possible to extirpate it.' The measure was recommended by all the Local Governments which had such towns within their territories, and it was considered at the time to have become a matter of urgency through the statistics which had reached the Government concerning the condition of the seamen in those towns. In its final form, however, the Act was not limited to seaports but was made applicable to any place in India which Local Governments, with the sanction of the Governor General in Council, should specify. This change was effected mainly in consequence of the remarks of the Hon'ble Sir John Strachey, who drew attention to the results that had attended efforts to check venereal disease in the great city of Lucknow. Practically, however, the Act has been limited to the three presidency-towns, and to seaports in Burma. It has never been in force in more than nine towns in the whole of British India, nor at any time, so far as I can ascertain, in any town that is not a seaport, except Lucknow and one other town. Last year it was in operation only in Madras, Bombay and two other places; and its operation has now been entirely suspended under orders of the Government of India issued on 19th May last.

"As regards the effect of the Act opinions are somewhat divided not only among the public but among medical and statistical experts. It is admitted to have been beneficial in checking disease among the sailors in Bombay. Elsewhere the success which has attended its application in the large towns in the whole or parts of which it has been in force is doubtful. It certainly has not had the anticipated effect of extirpating the disease, and if, as Sir Henry Maine observed, the 'sole justification for this sort of legislation was that it should be thorough,' there are few I think who could successfully maintain that the Act has justified itself. In 1880 it was found in Calcutta to be unworkable except under rules and practices which the High Court condemned. Proposals to make the

law more stringent and to extend it to the suburbs were not accepted. As an alternative the application of the Act was restricted to the parts of the town frequented by soldiers and sailors, but with no better results. A committee consisting of four medical experts, with the Hon'ble B. Colvin as president, was meantime appointed to investigate the whole subject; and, as the result of their inquiries, together with a call made by the Secretary of State for an opinion on the general question of the working of the Contagious Diseases Act, the Government of India, in January, 1882, recommended the repeal of the Act on the ground that it did not, and with any practicable amendment could not, effect appreciable good, was unpopular, liable to abuse and costly. At that time, however, a Select Committee of the House of Commons had reported against the repeal of the English Contagious Diseases Acts or any modification of their stringency. It was therefore considered to be better to wait and not repeal the Indian Act, but the Government of India was given discretion to withdraw its operation. Accordingly the Act was suspended in Calcutta on 15th March, 1883, since which date it has not been in force there. A representation made by the Calcutta Health Society in 1887 in favour of the re-introduction of the Act met with considerable opposition, and the Government of Bengal, in submitting its views on the proposal, was of opinion that it would not suffice to put the present law in force, that it would have to be greatly strengthened and its area extended so as to include the distant suburbs, and that the Government of India would be well advised to decline to reconsider the decision arrived at in 1883.

"I need not trace at any length the history of the question as it affects Madras and Bombay. These Governments were of opinion in 1883 that it was undesirable to suspend the Act in the presidency-towns. Consequently the Act was left to its operation in the towns of Madras and Bombay. In 1887, however, the question was re-opened by the Secretary of State, to whom certain memorials had been submitted, and the result of further inquiry and consideration was the issue, as I have stated, of the orders of 19th May, 1888, suspending the operation of the Act in the towns to which at that time its operation was limited.

"The object of the Bill which I now ask leave of the Council to introduce is to remove from the Statute-book Act XIV of 1868 and any Acts subsidiary to and dependent on it; to do, in short, what the Government of India if permitted would have done six years ago. The question as it affects cantonments is under separate consideration."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES AITCHISON also introduced the Bill.

The Hon'ble SIR CHARLES AITCHISON also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 8th August, 1888.

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 27th July, 1888.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 25, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 22nd August, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding.*

His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Nawáb Sir Nawázish Ali Khán, K.C.I.E.

The Hon'ble G. R. Elsmie.

SALT-DUTY BILL.

The Hon'ble MR. WESTLAND moved that the Bill to regulate the payment of duty in respect of Salt where there has been an alteration of the

rate of duty payable in respect thereof be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Sir Charles Elliott, the Hon'ble Mr. Elsmie and the Mover, with instructions to report within two months.

The Motion was put and agreed to.

PROBATE AND ADMINISTRATION BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters. He said:

"Under section 90 of the Probate and Administration Act, 1881, the consent of the Court by which probate or letters of administration is or are granted is required to every disposition of property made by an executor or administrator, subject to the proviso that the Court may, when granting probate or letters of administration, exempt the executor or administrator from the necessity of obtaining such consent as to the whole or any specified part of the assets of the deceased.

"Neither under the Indian Succession Act, section 269, nor under the Hindu Wills Act, 1870, nor under the law as applied in the case of letters of administration granted by the Presidency High Courts, was any consent of the Court required previous to the disposal of property by an executor or administrator, and the provisions to this effect in section 90 of the Probate and Administration Act, 1881, though no doubt prompted by caution, were distinctly retrogressive.

"As might have been expected, considerable difficulties have arisen from this alteration in the law. Hindus in the presidency-towns have gone on taking out probates and letters of administration in the old form for the last seven years, and they now find that many of their sales and transfers of property are liable to be called in question because the consent of the Court has not been obtained. As an illustration, let me take the simple case of Government promissory notes, which have frequently to be sold to provide funds for the payment of debts of a deceased person. The Secretary and Treasurer of the Bank of Bengal writes:—

"It is only recently that the restrictive effect of section 90 of Act V of 1881 has been realized by the Public Debt Office, and for some years past no distinction was made between the powers of European and Asiatic executors and administrators with respect to the disposal of notes belonging to the estates administered by them; and, so far as I am aware, no complaints have ever arisen from such want of distinction. The new state of things, on the contrary, is causing much dissatisfaction amongst the persons to whom the Indian Succession Act does not apply, and who are interested in questions relating to the law of succession to Government securities."

"On referring to the records in the Legislative Department, I find that section 90 of Act V of 1881 was apparently based on a proposal of the Lieutenant-Governor of the North-Western Provinces to require 'the consent of the Judge to the sale or mortgage of immoveable property' only. The Select Committee to whom the Bill was referred went beyond this recommendation, stating it to be their opinion that the power to dispense with the necessity for consent, which it conferred on all Courts, would be sufficient to prevent any practical inconvenience. This expectation has not been realized; and I think a strong case has been made for a return to the former practice, and for legalizing intermediate transactions which have occurred since the alteration of the law in 1881.

"Theoretically, no doubt, the consent of the Court appears to be a great safeguard, but in practice it is not very much to be relied on. 'Such applications,' says a District Judge of great experience in Bengal, 'are ordinarily made on affidavit or some merely formal evidence, and no Judge can feel sure

whether, in granting the application, he is permitting the executor to make a necessary sale or authorizing an act of waste. As the law stands at present, it appears to me to serve only to cause useless trouble and expense to an honest executor, and probably to protect a fraudulent executor, who might plead the sanction of the Court, if called to account for a sale improperly made.' Mr. Gould, the late Administrator General of Madras, tersely describes section 90 as a 'trap for the unwary and a stumbling-block for the wary.' And my learned friend Mr. Woodroffe, whose long experience lends great weight to his opinion on the subject, considers that the retention in the section of the words 'with the consent of the Court' and of the proviso renders litigation frequent and 'necessitates constant applications to Courts, which, being almost always *ex parte*, are but of little real protection to the beneficiaries.' The true safeguard, it seems to me, is to be found in the simple but effective process of requiring adequate security to be given, under section 78 of the Act, for the due administration of estates.

"In these circumstances it is proposed by section 7 of the Bill to substitute for section 90 of the Probate and Administration Act, 1881, a section conferring on an executor or administrator an absolute power of disposal over moveable property, but, as regards immoveable property, subjecting an executor ordinarily to such restrictions, if any, as are imposed on him by the will appointing him, and an administrator to restrictions similar to those imposed on a guardian by Acts XL of 1858 and XX of 1864. It is also proposed by section 10 of the Bill to confer on persons who have already taken out probate or letters of administration under Act V of 1881 the unrestricted powers, prospectively and retrospectively, which under the Hindu Wills Act used to be conferred, and under the Indian Succession Act are conferred, on executors and administrators.

"It is further proposed by section 10 of the Bill to remove a doubt whether section 90 of the Act of 1881 is to be construed, with respect to transfers made after the first day of April, 1881, as applying to executors and administrators to whom probates, and letters of administration with copy of the will annexed, were granted under the Hindu Wills Act, 1870, before that day.

"The other sections of the Bill are of secondary importance.

"Sections 4 and 8 will enable Courts which are not Courts of Record, and cannot punish for such contempt as is involved in the omission to submit an inventory or account, to insist in proper cases, either in the interests of the revenue or at the instance of a person interested in the administration of an estate, on the submission of such documents as Acts X of 1865 and V of 1881 now require to be submitted in all cases, without, however, making any express provision for enforcing their submission.

"Section 9 is designed to remove a doubt which has existed since the enactment of article 2 of the first schedule to the Indian Stamp Act, 1879, with respect to the stamp to which an administration-bond under the Indian Succession Act, 1865, or the Probate and Administration Act, 1881, is liable.

"Article 16 of the second schedule to the Court-fees Act, 1870, fixed the fee on an administration-bond at eight rupees; under the Stamp Act, 1879, the same duty as that payable on a security-bond, which in no case exceeds five rupees, is imposed; but the former provision was not repealed, and questions have arisen as to the Act under which the duty ought to be levied. With the consent of my hon'ble friend Mr. Westland I propose to abolish the higher rate and to fix five rupees as the maximum duty."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and

in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

SUCCESSION CERTIFICATES BILL.

The Hon'ble MR. WESTLAND moved for leave to introduce a Bill to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons. He said:

"The present Bill has a history which goes back to 1881. In that year Mr. Pitt-Kennedy made a proposal that Act XXVII of 1860 and the Court-fees Act should be amended so as to impose upon a person taking out a certificate a fee of two per cent. upon the entire value of the estate of the deceased. The proposal was based on these grounds—first, that the lower fee taken on certificates under Act XXVII of 1860 tempted persons to substitute the certificate procedure for the more perfect system of taking out administration; second, that the system of certificates gave an advantage to some classes of the community over others, who could proceed only by the regular system of administration; and, third, that the grant of a certificate was by large classes of the community regarded, though erroneously, as equivalent to the establishment of a representative title as against the world.

"These proposals were referred to Local Governments in April, 1881; but the weight of local authority was against giving any new character to the Certificate Act; it was considered that the mass of the people were not ripe for the imposition of a regular system of administration as a condition precedent to the realization of the deceased's debts. But it was shown that the neglect and evasion of the law which were among the grounds of Mr. Pitt-Kennedy's proposals were extremely common. Though the law nominally imposed a two per cent. duty, it practically left it quite optional with the payer whether he should pay it or not.

"First of all, a person could obtain a certificate on a valuation of Rs. 20 only, and having got it could apply it to the collection of a debt of Rs. 20,000. The Court-fees Act, indeed, laid down that the holder had to file an account after a year; but the provision was not effective, and, as a matter of fact, was continually evaded. So also it was found that applicants occasionally pursued their cases in the Court so far as to have themselves declared entitled to a certificate, but stopped at that point in order to avoid payment of the duty required upon its actual issue. And the law itself contained an express provision against absence of certificate being considered a disqualification even in the case of a refractory debtor sued in Court; for it is provided that the Court should not admit the plea unless it considered it was founded upon a real doubt as to the title of the claimant.

"To remedy these defects in the law Major Baring introduced in this Council in March, 1883, a Bill to amend Act XXVII of 1860. The main provision of the Bill was that the certificate should be a certificate for the collection only of such debts as were specifically enumerated in it. Following out the principle that there should be no compulsory administration, the Bill was so worded that the certificate-holder was not obliged to take out a certificate for, or pay duty upon, debts which he believed he could amicably collect without one, but he could not sue for any debt unless it was first expressly included; and of course he had a strong motive to insert, and pay duty upon, any debts regarding the collection of which he was not quite assured.

"This Bill was referred to Local Governments, and was for the most part favourably reported on. Several improvements in detail were recommended; and the only objection made to it on principle was that the certificate should be made to compulsorily include all the debts due to the estate, and even the

whole estate. But, as I have already stated, the Government was not prepared to adopt the view that no powers in respect of a deceased's estate should be given which fell short of complete administration; in fact, the primary principle of the Bill was the protection of debtors and not the administration of the estate.

"While this was going on, and before the Bill of 1883 had reached the stage of reference to a Select Committee, the Government of Bengal laid before the Government of India a representation regarding the absence of any security for the due realization of the stamp-revenue both in the case of applicants for certificates and in the allied cases of applications for administration and for guardianship.

"The whole question was again submitted to local authorities, executive and judicial, and the present Bill is the outcome of such further amendments and suggestions as have received general approval. Part of these suggestions have been considered with reference to the Bill which the Hon'ble Mr. Scoble has to-day introduced.

"So far as regards the Bill relating to certificates, it will be observed that we still adhere to the voluntary principle. We have rejected proposals to include the whole of the debts of the estate, and not only those which will not be amicably paid; we have rejected proposals to attach a penalty to the non-submission of accounts, and proposals to give rewards to informers who bring to notice evasions in respect of valuation. And, although the certificate is not valid for the enforced recovery of any debt not mentioned in it, we protect any debtor who in good faith pays such a debt to the holder.

"The Bill is not a fiscal Bill in the sense of its imposing any new duties or taxes, but it will no doubt have the effect of increasing the revenue by preventing what are reported to be the very frequent evasions of the duties prescribed by the existing law.

"The form of the Bill is changed since the subject was last before the Council. In 1883 it was thought sufficient to amend the Act of 1860, but it is now thought best, considering the additional changes now proposed, to abolish the old Act and substitute an entirely new one."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND also introduced the Bill.

The Hon'ble MR. WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

CIVIL PROCEDURE CODE, &c., AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882. He said:

"The purpose of this Bill is two-fold—in the first place, to make it quite clear what chapters and sections of the Code of Civil Procedure, as amended by recent legislation, apply to Presidency and Provincial Courts of Small Causes, respectively; and, secondly, to regulate the course of appeal from orders in insolvency-matters under the Code.

"Doubts have been expressed by competent authority as to the effect of Acts VI and VII of 1888 in respect of both these matters. Such doubts lead to

unnecessary litigation, which it should be the object of the legislature to prevent. I therefore ask the Council to permit me to remove them by this Bill, which is a mere corollary to the earlier legislation of this year upon the subject."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 5th September, 1888.

SIMLA; } S. HARVEY JAMES,
The 24th August, 1888. } Secretary to the Government of India,
Legislative Department.

Note.—The Meeting fixed for the 8th August, 1888, was subsequently postponed to the 22nd idem.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 8, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT IN 21 & 22 VICT. CAP. 57.

The Council met at Viceregal Lodge, Simla, on Wednesday, the 5th September, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Nawáb Sir Nawázish Ali Khán, K.C.I.E.

The Hon'ble G. R. Elsmie.

TOLLS VALIDATION BILL.

The Hon'ble MR. ELSMIE moved that the Bill to remove doubts as to the legality of the levy of certain Tolls be taken into consideration. He said:—

"My Lord, in introducing this Bill into Council on the 11th July last, I explained briefly the general scope of the measure and the reasons which had rendered legislation necessary.

"The Bill has now been published in the Gazette of India and in the local official Gazettes, while the Local Governments have been invited to express

their opinions in regard to it. No adverse criticisms have been elicited and no suggestions for altering the wording of the Bill have been received. The Government of the Punjab, by whom the necessity for the proposed legislation was first pointed out, accepts the Bill in its entirety, and the other Local Governments affected by it approve of its provisions."

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also moved that the Bill be passed.

The Motion was put and agreed to.

CONTAGIOUS DISEASES ACTS REPEAL BILL.

The Hon'ble SIR CHARLES AITCHISON moved that the Bill to repeal certain enactments relating to Contagious Diseases be taken into consideration. He said:—

"This Bill, as I explained when moving for leave to introduce it, is of a very simple character. Its object is to remove from the statute-book certain enactments relating to contagious diseases which have become inoperative. When introducing it I mentioned that the question of contagious diseases in cantonments was under separate consideration. The provisions of the law relating to cantonments are separate and different from the Acts which the Bill before us is intended to repeal. But, in order that the attitude of the Government of India to the whole question may be understood, I may perhaps be permitted here to explain in a general way that it is intended to deal with the cantonment question in a Bill to consolidate and amend the law relating to cantonments, which has been under consideration for several years past and has recently been submitted to Local Governments for their opinions. It is proposed to abandon the powers conferred by clause 7 of section 27 of the Cantonment Act of 1880, and the corresponding Acts in Madras and Bombay, and to take power to make rules to exclude from cantonments persons suffering from contagious or infectious diseases, and to organize a system of voluntary hospital relief for patients suffering from such diseases. In the meantime, pending the necessary steps preliminary to legislation, the cantonment authorities have received executive orders that the existing rules are to be so worked that there shall be no compulsory examination of women, no registration of women and no granting of licences to practise prostitution.

"The Bill was sent to Local Governments and has been published as usual in the local Gazettes."

The Hon'ble MR. ELSMIE said:—

"My Lord, Act XIV of 1868, the repeal of which is now proposed, has been on the statute-book for twenty years, but during that period, according to the best information I have been able to obtain, has never been put in force in any part of the Punjab.

"I understand, from what was stated by the Hon'ble Sir Charles Aitchison on introducing the Bill, that the provisions of this Act have been found very difficult to work and more or less ineffective in the very few towns of other provinces of India to which it has been extended.

"In these circumstances it is extremely unlikely that this law in its present form would ever be made applicable to the Punjab, the province with which I am best acquainted. So far as the Punjab is concerned, therefore, there seems to me to be no objection to the proposed measure. In saying this, however, I am anxious personally to guard against being understood as having at present been satisfied that this Act should be repealed on the ground that it belongs to a class of legislation which should be removed from the statute-book as being necessarily opposed to good policy in India."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES AITCHISON also moved that the Bill be passed.

The Motion was put and agreed to.

SHAN STATES BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States. He said:—

"Among the territories formerly governed by King Thebaw which, by the Proclamation of 1st January, 1886, were declared to have become part of Her Majesty's dominions, were several groups of Shan States, a few lying to the west of the Irrawaddy, and some beyond the Salween, but most of them occupying the great Shan plateau between those two rivers. These States, upwards of seventy in number, large and small, have an aggregate area of over 40,000 square miles, and contain a population estimated at two millions. Under the Burmese Government, their administration seems to have been left in the hands of their own Chiefs or Sawbwas, with but little interference so long as the due amount of tribute was regularly paid.

"After the fall of Mandalay, letters were sent to the Shan Chiefs telling them that the British Government did not desire to interfere with their autonomy so long as they kept the peace, paid the usual moderate tribute, and abstained from fighting with each other. Accordingly, my learned predecessor, Mr. Ilbert, in presenting the Upper Burma Laws Bill to this Council in September, 1886, remarked:—

"There is no present intention of importing British law into the Shan States, and therefore we have excluded those States from the operation of the laws which we declare in force in Upper Burma, merely reserving a power, which may possibly be useful hereafter, to introduce into any portion of those States such laws, if any, as may be required."

"During the two years which have elapsed since this Bill became law considerable progress has been made in the settlement of the relations between the Shan States and the British Government; and the object of the measure which I now ask leave to introduce is to put these relations upon a legal basis. Its main feature is to vest the administration of civil and criminal justice and the collection of the revenue within each State in the person for the time being recognized by the Government as the Chief of the State, subject to such conditions as the Government may prescribe; and to provide that, until varied by the introduction of British law, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

"The system thus introduced carries out the traditional policy of the Government of India. When a territory has newly come under our administration, and is not ripe for the introduction of the more perfect system which prevails in our older provinces, we have not introduced it. 'To govern the people through their native Chiefs,' as Mr. Mountstuart Elphinstone well observes in his Report on the Territories conquered from the Peshwa, 'is the only one practicable plan until the gradual effects of civilization have produced their natural results. * * * The plan,' he adds, 'has many obvious and palpable defects, and many more will no doubt appear when its operations are fully observed. It has this advantage that it leaves unimpaired the institutions, the opinions and the feelings that have hitherto kept the community together, and that, as its fault is meddling too little, it may be gradually remedied by interfering when urgently required. * * * It makes no great changes, either real or apparent, in the laws, and it leads to no revolution in the state of property. The established practice also, though it be worse than another proposed in its room, will be less grievous to the people, who have accommodated themselves to the present defects and are scarcely aware of their existence; while every fault in a new system, and perhaps many things that are not faults, would be severely felt for the want of this adaptation.'

"Working upon the lines thus laid down by one of the wisest of Indian statesmen the Bill empowers the Local Government, with the previous sanction of the Governor General in Council,—

to appoint officers to take part in the administration of civil and criminal justice and the collection of the revenue within any Shan State into which it may be desirable to introduce British agency;

to define the powers and regulate the procedure of the officers so appointed;

to direct by what authority any jurisdiction, power or duty incident to the operation of any British law that may be introduced into the State is to be exercised or performed; and

to modify the customary law of the State in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorises punishments, or permits practices, which are essentially repugnant to civilized ideas.

"These powers will be exercised, as regards the Shan States generally, only when the occasion for putting them in force is imperatively demonstrated; but there is a collection of petty States, called the Myelat, or middleland, between Burma proper and the Shan plateau, in regard to which, though it may not be desirable to introduce direct British administration, it is necessary to make immediate provision for the establishment of the British Government as the direct controlling authority. Under the Burmese *regime*, these petty States had a certain independence in the management of their internal affairs, but in all important matters were subject to the orders of the Government at Mandalay. Section 6 of the Bill will enable the Chief Commissioner to exercise in the Myelat the powers formerly possessed by the King of Burma; and it is hoped that by carefully regulating, watching, and as opportunity occurs improving, the existing methods of local government, he may be able to render the Myelat an example which the other Shan States may be spontaneously glad to follow."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and in the Burma Gazette.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 12th September, 1888.

SIMLA;

The 7th September, 1888.

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 22, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING

The Council met at Viceregal Lodge, Simla, on Thursday, the 20th September, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble G. R. Elsmie.

BILL TO SUPPLEMENT BOMBAY AND CALCUTTA MUNICIPAL ACTS.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889. He said:—

"The Councils of His Excellency the Governor of Bombay and His Honour the Lieutenant-Governor of Bengal have recently passed Bills to consolidate and amend the law relating to the municipal affairs of the presidency towns within their respective jurisdictions. They are Bills of great magnitude and importance, containing 461, and the other 528, sections,—and were adopted after

very full discussion not only in the Councils themselves, but in the Press and by the municipal bodies which they more immediately concern.

"As might be expected, they have given rise to considerable diversity of opinion among the communities most directly affected by their provisions. With these matters of controversy the Bill which I ask leave to introduce has no concern. The questions raised were within the competence of the local legislatures to determine; and the Government of India has no reason to doubt that they have exercised the discretion which they admittedly possess, wisely and with a due regard to local interests and requirements.

"But there is another matter, happily not in controversy, in regard to which it has been considered necessary to give effect to the proposals of these Bills by legislation in this Council. In both Bills it is proposed to confer jurisdiction in certain municipal matters—claims to vote, objections to valuations or assessments, compensation for damage, and the like—upon Appellate Benches of Municipal authorities, Presidency and other Magistrates, and Small Cause Courts; and to make the decisions of these tribunals final in certain classes of cases. It is obviously desirable that there should be a cheap and summary way of disposing of such questions: but the local Councils have no power to pass laws which affect the jurisdiction of the High Courts as established by Acts of Parliament, or which repeal or amend Acts passed by this Council subsequently to the year 1861. The provisions of the two Bills appear to be open to question on both these grounds

"Following the precedent of Act XXII of 1870, the Bill which I ask leave to introduce cures this defect by enacting that the provisions of the City of Bombay Municipal Act and the Calcutta Municipal Consolidation Act shall, so far as they confer jurisdiction in these municipal matters on the tribunals I have mentioned, and, as regards the decisions, orders and other proceedings of these tribunals, be as valid as if they had been passed by this Council. Other sections define the jurisdiction of the High Court at Bombay as a Court of Reference and Appeal in such cases.

"I may add that the Bill is introduced with the concurrence of the Local Governments concerned."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India, the Bombay Government Gazette and the Calcutta Gazette.

The Motion was put and agreed to.

CIVIL PROCEDURE CODE, &c., AMENDMENT BILL.

The Hon'ble MR. SCOBLE also moved that the Bill to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882, be taken into consideration. He said:—

"As I stated when introducing this Bill, it is merely subsidiary to recent legislation amending the Code of Civil Procedure, and is intended to make absolutely clear, first, what sections of the Code apply to Presidency and Provincial Small Cause Courts, respectively; and, secondly, by what Courts appeals in insolvency-matters under the Code are to be heard and determined."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 2nd October, 1888.

SIMLA;

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.

The 21st September, 1888.

Note.—The Meeting fixed for the 12th September, 1888, was subsequently postponed to the 20th idem.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 6, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 & 25 VICT., CAP. 57.

The Council met at Viceregal Lodge, Simla, on Tuesday, the 2nd October, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble G. R. Elsmie.

SOLDIERS' NECESSARIES PURCHASE ENACTMENTS REPEAL BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved for leave to introduce a Bill to repeal certain enactments relating to the purchase of regimental necessities from soldiers. He said:—

"I may explain that under the Army Act there is a certain scale of penalties laid down for the illegal purchase of regimental necessities from soldiers. By the Indian Act of 1867 a much lower scale of penalties has been enacted than is provided in the Army Act, and frequent representations have

been made to the Government of India by the military authorities that this lower scale of penalties is insufficient for the purpose of stopping the malpractice. The object of the present Bill is to repeal the Act of 1867, in which case the Army Act and the provisions thereof would be applicable to India. I may mention that the High Court of Bombay have already expressed a doubt as to whether the Act of 1867 was not, in fact, superseded by the Army Act. But however that may be,—whether or no the Act of 1867 has been superseded,—it appears at any rate desirable to put the matter beyond all doubt by repealing the same. This it is proposed to do by passing the measure which I now beg leave to introduce. The Bill will, when passed, enable the Governor General in Council to publish a notification under section 169 of the Army Act declaring that for the purposes of section 156 of that Act, which deals with penalties, Rs. 50 and Rs. 200 shall be deemed to be equivalent to £5 and £20, respectively, which are the penalties laid down in the Army Act."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also introduced the Bill.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

TELEGRAPH ACT, 1885, AMENDMENT BILL.

The Hon'ble SIR CHARLES ELLIOTT moved that the Bill to make an addition to the Indian Telegraph Act, 1885, be taken into consideration. He said:—

"I have to report for the information of Your Excellency's Council that since the Bill was introduced on the 25th of July it has been circulated to the Local Governments concerned, that is to say, Madras, Bombay and Bengal, and the Chief Commissioner of Burma, and has been published in the official Gazettes. There is only one very small matter on which any difference of opinion has arisen. As was pointed out at the time I introduced the Bill, its object was to amend a slight technical omission which had taken place in the drawing up of the original Act, according to which certain powers were conferred on District Magistrates. But these powers had to be exercised in the presidency-towns of Calcutta, Madras and Bombay, in which no officer bearing the title of District Magistrate exists; and it was therefore necessary to appoint some officer in his place who should exercise these powers, and the Bill has provided that the Commissioner of Police shall take the place of the District Magistrate in these presidency-towns. The only possible alternative was to appoint the Chief Presidency Magistrate, or one of the Presidency Magistrates; and it has been suggested by one of the Judges of the Bombay High Court that the Presidency Magistrate might have been a better authority. But I beg to point out that the three cases in which the interference of that authority is necessary lie in sections 16, 17 and 18 of the Act, and in all these cases the power given to the District Magistrate is an executive and not a judicial power. Thus section 16 says that the Magistrate may, in his discretion, enforce the right of a telegraph authority to exercise certain powers which the Act confers: section 17 says that the Magistrate may insist on the compliance by a telegraph authority with a reasonable requisition for the removal of a telegraph line or post; and section 18 says that if a tree interrupts the line of wire the Magistrate has power to cause the tree to be removed and to give compensation for the value of the tree. All these powers are such as must be exercised by an officer visiting the spot, and are therefore much more suitable to be exercised by the Commissioner of Police rather than by the Presidency Magistrate, who is occupied all day long deciding cases; and the Bombay Government has on further consideration withdrawn its objection and expressed its satisfaction with the Bill. On the other question of substituting a Judge of the Court of Small Causes in place of the District Judge no suggestion has been made, and I think I can therefore recommend that your Excellency's Council should pass the Bill."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES ELLIOTT also moved that the Bill be passed.

The Motion was put and agreed to.

PUNJAB COURTS ACT, 1884, AMENDMENT BILL.

The Hon'ble MR. ELSMIE moved for leave to introduce a Bill to amend the Punjab Courts Act, 1884. He said:—

"The Bill deals chiefly with the sections of the Act which govern the law of appeal, but the opportunity has been taken, with the approval of the Local Government and the Government of India, to propose certain alterations and additions in other sections which the experience of the last four years has suggested to the Judges of the Chief Court.

"The immediate necessity of altering the law of appeal has arisen in the following way. It will be in the recollection of the Council that one of the principal features of the civil appellate system introduced into the Punjab by Act XVIII of 1884 was the constitution of Benches of two Judges at the headquarters of divisions for the purpose of dealing with civil appeals of the more important class, namely, those arising from suits other than those technically known as 'small causes'. One of the objects of this important innovation was to secure a reduction in the number of appeals to the Chief Court. The Hon'ble Mr. Barkley in asking leave to introduce the Punjab Courts Bill said that—

'the reason for proposing that these Courts should consist of two Judges was that it was considered that this would strengthen them for appellate purposes, and allow of finality being given to their decisions passed in appeal.'

"Mr. Barkley went on to show that there was of course the drawback that more Judges would be required to do the same work, but that where two Judges concurred in reversing or modifying the decision of a subordinate Court there would be less reason for allowing a further appeal than where a single Judge of appeal had come to a different decision from that of the first Court on the same evidence. The Punjab Courts Bill therefore, as originally introduced, contemplated the appointment of a Bench of at least two Judges in each civil division, but an important modification of this arrangement was proposed by the Select Committee.

"Mr. Barkley in presenting the Report referred to this alteration as follows:—

'An important change is that the Divisional Court may consist of one or more Judges, the Bill as introduced having provided for its consisting in all cases of two Judges at least. The constitution of Appellate Courts subordinate to the Chief Court and consisting of more than one Judge is an experiment to this extent at least that we have hitherto had no experience of how such Courts may be expected to work; and, in addition to this, the sanction which has been given for the appointment of thirteen Divisional Judges would not admit of the constitution of more than six Courts of two Judges each, unless some of the Judges are appointed in addition to other duties—an arrangement which may not always be found convenient. It therefore seemed desirable to give greater elasticity to the Bill by allowing a Divisional Court to consist of one Judge if, with reference to the circumstances of the case, the Local Government thinks this expedient or necessary.'

"This proposed modification was adopted by the Council, effect being given to it by section 19 (1) of the Act as passed, and, as a consequence, a very important alteration of the law of appeal to the Chief Court was embodied in section 40 (b). In view of the appointment of Divisional Benches it had been originally intended to permit, as of right, a further appeal to the Chief Court only in suits exceeding five hundred rupees in value; but, when it was decided that Divisional Courts might, under certain circumstances, consist of one Judge only, it was also provided that a further appeal should lie to the Chief Court from the decree of a single Judge varying or reversing the decree of the Court below.

"When the Act was passed, the Government appointed seven Divisional Benches, the Commissioner of the Derajat being directed to sit as a member of a Bench in addition to the thirteen Civil Judges referred to by Mr. Barkley. The power to appoint Divisional Judges to sit singly meanwhile remained in abeyance.

"Before many months had elapsed, however, it was found that, although the new Act had, as was expected, greatly reduced the number of civil appeals to the Chief Court, the amount of work coming before the Divisional Benches was much greater than had been anticipated, and these Courts rapidly fell into hopeless arrears. This state of things led to much correspondence with the Chief Court, and eventually the Local Government, agreeing with the opinion of the learned Judges, came to the conclusion that the advantages of the Bench

system were more than outweighed by the disadvantages. Section 19 (1) of the Act was therefore brought into operation; the Benches were dissolved and thirteen single Judges were appointed in their stead. The first result of this measure has been a considerable reduction but not a complete clearance of the arrears in the Divisional Courts. The second result,—the natural consequence of the greater number of appeals disposed of by Divisional Judges sitting singly, combined with the operation of section 40 (b) of the Act,—has been so large an increase in the number of further appeals for disposal by the Chief Court that it has been found quite impossible to prevent the accumulation of very heavy arrears.

"In 1887, up to the vacation, the Court consisted of four Judges,—its present permanent strength,—but from the month of November, when it was apparent that the arrears were daily increasing, the appointment of two extra Judges was sanctioned as a temporary measure, and from that time till the 15th August last the Court consisted of six Judges. Notwithstanding this fact the Judges have found themselves quite unable to reduce the pending file. Institutions have been so numerous that it has only been possible to prevent the accumulation of further arrears. For this state of things the Punjab Courts Act, as it stands, affords no remedy, and the immediate object of the Bill which I have been instructed to introduce is to relieve the block of work, to prevent its recurrence in future, and so to secure to appellants in the highest Court of the province the disposal of their cases within a reasonable time. Although this is the immediate aim of the Bill, I believe I am right in saying that, in the opinion of the Local Government, a further object will be attained, namely, a very material improvement in the principles of the Punjab civil appellate system.

"Circumstances have prevented me from studying all the provisions of the Bill in as much detail as I could have wished. I shall therefore on the present occasion merely invite the attention of the Council to what appear to me to be the chief features of the proposed law.

"Section 3 of the Bill is intended to repeal the proviso to section 8, sub-section (1), of the Punjab Courts Act, which declares that no decree, sentence, decision or order of any Court not being an order within the meaning of the Code of Civil Procedure shall be reversed or modified by any Judge of the Chief Court sitting alone. A proviso of this nature has had a place in the law relating to the Chief Court ever since the constitution of that tribunal in 1866, but a similar restriction is not laid on the Judges of the High Courts. The Government of India, the Local Government and the Judges of the Chief Court, after very careful consideration, are of opinion that the proviso may now be safely withdrawn, it being of course understood that the exercise of powers by single Judges will be carefully controlled by rules to be made under the first paragraph of section 8, sub-section (1).

"The next important sections of the Bill are 39 and 40, which must be read in connection with the definitions contained in section 2. The Punjab Courts Act, in dealing with suits for the purpose of appeal, divides them into two classes only, namely, 'small causes' and suits other than 'small causes'. The new Bill proposes to divide suits into—

- (1) small causes;
- (2) land-suits—that is to say, suits relating to land as defined in the Punjab Tenancy Act;
- (3) unclassified suits—that is to say, suits which are neither small causes nor land-suits.

"Under the present law District Appellate Judges are competent to dispose only of appeals in 'small cause' suits not exceeding five hundred rupees in value. It is now proposed in addition to confer on those Judges power to hear appeals in 'unclassified suits' not exceeding one hundred rupees in value. By this arrangement Divisional Judges will probably be relieved of about twenty per cent. of the appeals in 'other suits' which, at present, they alone are competent to dispose of. Section 40, proviso (ii), lays down that no further appeal shall lie in any 'unclassified suits' of value not exceeding one hundred rupees. This is an important restriction on the law of appeal as at present in force which merits careful consideration.

"Section 40 (1) (a) of the Bill corresponds with section 40 (a) of the Act, save that it is proposed to raise the value of suits in which unrestricted further appeal may lie from five hundred rupees to one thousand rupees; but this provision is very materially modified in the case of all 'land-suits' by section 40 (b), which allows, as of right, a further appeal in 'land-suits' where a Divisional Court consisting of a single Judge varies or reverses otherwise than as to costs the decree of the Court below.

"The last point in the Bill to which I shall at present call attention is section 40, sub-section (2), which proposes to make a very considerable addition to the existing law regarding appeals on certificates granted by Divisional Courts. These 'certificate' appeals are at present provided for by section 40 (d) of the Act, to which section 40, sub-section (1) (d), of the Bill corresponds; but, whereas in the existing law the refusal of a Divisional Court to grant a certificate is final, it is proposed by the Bill to permit an application to the Chief Court for a certificate which a Divisional Court has declined to grant. I understand that the Judges of the Chief Court lay great stress on this proposal, and that they consider it will have a very material effect in modifying some of the existing and newly proposed restrictions on further appeals; but on the whole it is anticipated that institutions in civil appeals will be reduced by not less than thirty per cent.

"There are other provisions in the Bill which, with those I have mentioned, will require the careful attention of the Select Committee whose appointment I am about to propose and whose Report will be duly presented for consideration, but I do not think it is necessary for me to occupy the time of the Council with further remarks at present."

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also introduced the Bill.

The Hon'ble MR. ELSMIE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Sir Charles Aitchison, the Hon'ble Mr. Westland and the Mover, with instructions to report at the next meeting of Council.

The Motion was put and agreed to.

The Council adjourned to Friday, the 12th October, 1888.

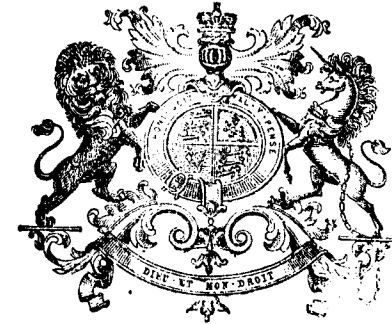
SIMLA;

The 5th October, 1888.

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 13, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT IN 42 VICT. CAP. 67.

The Council met at Viceregal Lodge, Simla, on Friday, the 12th October,
1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble G. R. Elsmie.

BILL TO SUPPLEMENT BOMBAY AND CALCUTTA MUNICIPAL ACTS.

The Hon'ble MR. SCOBLE moved that the Bill to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889, be taken into consideration. He explained that the Bill had received the approval of the Local Governments of Bombay and Bengal and had been published in the manner directed by the Council and that he had no modification to propose.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill be passed.
The Motion was put and agreed to.

KING OF OUDH'S ESTATE BILL.

The Hon'ble MR. SCOBLE also moved for leave to introduce a Bill to make further provision for the Administration of the Estate of His late Majesty the King of Oudh. He said :—

"By Act XIX of 1887 the Governor General in Council was entrusted with the administration of the property left by His late Majesty the King of Oudh. Of course it was necessary for the Governor General in Council to act through an Agent, and the object of the Bill which I now ask leave to introduce is to facilitate the performance by that Agent of certain ministerial acts which are necessary for the realization and distribution of the estate. The Bill therefore proposes that, subject to the control of the Governor General in Council, the Agent shall have power to dispose of any moveable or immoveable property belonging to the estate, to execute and take conveyances of immoveable property and to institute proceedings in any Court for the purpose of getting possession of such property or for the recovery of rents, or debts, due to the estate; and, as it appears that the administration of the estate will take some time, the second section of the Bill provides, in case of the departure from India, death, resignation or removal of the Agent, for the continuance to his successor of all powers and rights necessary for the uninterrupted conduct of the administration."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and the Calcutta Gazette.

The Motion was put and agreed to.

PUNJAB COURTS ACT, 1884, AMENDMENT BILL.

The Hon'ble MR. ELSMIE presented the Report of the Select Committee on the Bill to amend the Punjab Courts Act, 1884.

CANTONMENTS BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved for leave to introduce a Bill to consolidate and amend the law relating to Cantonments. He said :—

"I may explain that the primary object of this Bill is to overcome the great and increasing difficulty which military officers experience in obtaining houses near the barracks occupied by the regiments to which they belong or other places of duty or even within the limits of cantonments. This matter of the great difficulty and inconvenience that military officers are put to in obtaining suitable accommodation within cantonments has been repeatedly brought to the notice of the Government of India by the military authorities, and in consequence of these representations a committee was appointed by the Governor General in Council in 1884, consisting of the Secretaries in the Legislative, Military and Home Departments, the Adjutant General, the Quartermaster General and the Judge Advocate General in India, to consider and report upon the whole subject. This committee sat throughout the whole of the summer season of 1884 and submitted their report in October of that year. They stated that it was desirable to amend the existing Cantonment Act, and they explained the amendments which they considered necessary. The amendments which they proposed had reference mainly to this difficulty of officers obtaining house-accommodation, owing to the great degree of complexity and uncertainty which had gradually gathered round the rights of owners of houses in cantonments. A draft Bill was prepared on the lines indicated by this committee, but various circumstances have stood in the way of its being brought before the Council; and

the Bill which I have now the honour to submit, although based on that Bill, has been drafted entirely anew by the learned Secretary in the Legislative Department.

"This matter of occupancy of cantonment houses is dealt with in Chapter V of the Bill, which, while insisting on the prior claim of military officers to occupy houses in cantonments, specially provides that the claim is not to extend to houses which are occupied as banks, or have been occupied for three years as hotels or shops, and that disputes respecting the amount of rent to be paid for houses claimed by military officers are to be settled by committees of arbitration, in which the civilian element will be predominant if houseowners so desire. Such privileges with respect to residence in cantonments, as members of the Civil Service and other civilians enjoy in some parts of India, are to cease, the only houses which are not to be subject to the prior claim of military officers being those already mentioned (that is, banks and hotels or shops) and houses owned by or under the control of railway administrations, or appropriated by the Government to the use of such officials as postmasters and telegraph-officers, whose residence in cantonments is necessary for the public convenience.

"Of the other portions of the Bill the following only appear to call for remark :—

"(1) *Section 2.*—It is proposed to repeal all existing Cantonment Acts in force in British India and several obsolete enactments relating to cantonments and other military matters.

"(2) *Section 3.*—The words 'officer' and 'soldier' are defined for the purposes of Chapters V and III, respectively, and the definition of the expression 'spiritous liquor' is designed to remove difficulties which have arisen in the construction of that expression in existing enactments.

"(3) *Sections 4-7.*—It is proposed that every cantonment be constituted a subdivision of the district in which it is situated, and that the Subdivisional Magistrate be called the *Cantonment Magistrate*.

"(4) *Section 8.*—This section vests the administration of the cantonment police in the District Superintendent under the general control and direction of the District Magistrate. Commanding officers of cantonments are to be relieved of the duty which is now unnecessarily imposed upon them of serving processes issued by the Courts for execution in cantonments.

"(5) *Sections 17-21.*—These sections give a legal status to cantonment funds and cantonment committees. The want of such a status has been a not unfrequent cause of inconvenience.

"(6) *Section 28.*—This section, which constitutes every cantonment a sub-district for the purposes of the Indian Registration Act, III of 1877, and the Cantonment Magistrate the Sub-Registrar of the sub-district, and which requires the provisions of the Transfer of Property Act, 1882, with respect to the registration of documents, to be observed in every cantonment, is designed to reduce the difficulties which now occur in the maintenance of registers of immoveable property in cantonments.

"(7) *Section 29.*—This section, following the precedent of former Acts, gives the Governor General in Council power to make rules consistent with the Act to provide for the executive control and management of cantonments, and supplements some deficiencies which have been found to exist in the powers given by the enactments now in force."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also introduced the Bill.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

MARINE ACT, 1887, AMENDMENT BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved for leave to introduce a Bill to amend the Indian Marine Act, 1887. He said:—

"This is a technical Bill of a very small character. The object of it is to enable the Governor General in Council, as occasion may require, to vary the definition of 'gazetted officer', of 'warrant officer' and of 'petty officer' in clauses (b), (c) and (d) of section 2, sub-section (1), of the Indian Marine Act, 1887, inconvenience having resulted from the present hard-and-fast rules in respect of the classification of officers in the lower grades of the Indian Marine service."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also introduced the Bill.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 18th October, 1888.

SIMLA;

The 12th October, 1888.

S. HARVEY JAMES,

Secretary to the Government of India,

Legislative Department.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 20, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 18th October,
1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Nawáb Sir Nawázish Ali Khán, K.C.I.E.

The Hon'ble G. R. Elsmie.

MERCHANDISE MARKS BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to amend
the Law relating to Fraudulent Marks on Merchandise. He said:—

“I do not think much argument is needed in support of the principle of this
Bill, although considerable criticism of its details may be expected and will, I hope,
be afforded by the mercantile community. It is good law, as well as common sense,
that no man has a right to put off his goods for sale as the goods of a rival
trader, and with that object to use names, marks, letters or other indications by
which he may induce purchasers to believe that the goods which he is selling are
the manufacture of another person. Still less is he entitled to use marks con-
taining a falsehood on their face, for the purpose of deceiving purchasers, and
palming off upon them an article other than that which they believed they were
contracting to buy.

"The same reasons which have led to the passing of the Merchandise Marks Act in England apply to this country; and the Bill which I ask leave to introduce has been framed upon the opinion of the recognized organs of the commercial classes in India. The Chairman of the Chamber of Commerce at Madras writes—'The increase in the importation of goods of foreign manufacture bearing fraudulent British trade marks points to the necessity of early legislation against an abuse that exposes honest traders to unmerited loss and discredit.' The Committee of the Chamber of Commerce at Bombay 'would welcome prompt legislation on the lines of the English Act, alike in the interests of legitimate traders and of native consumers; the existing position affording every inducement to the direct importation of fraudulently marked foreign goods.' The Millowners Association at Bombay approve of special legislation with a view to check the practice of marking false lengths on cloth goods, and are prepared to accept the provisions of the English Act in regard to false trade descriptions. The Bengal Chamber of Commerce, while reserving their views as to details, 'approve generally of the principle of protection to honest trade upon which the Act is based'; and the Trades Association of Calcutta 'would be glad to see an Act of a similar character introduced into this country.' The Honorary Secretary of the Bengal National Chamber of Commerce writes—'The fraudulent practice that has sprung up of late of putting false marks on piecegoods is a growing evil. It results in causing material loss to the ignorant retail dealer and the buyer in this country, and tends to shake public confidence in the honesty and good faith of English traders and manufacturers, and thus deters the expansion of this branch of the trade. My Committee, therefore, fully appreciates the necessity for adopting stringent legislative action for putting down such an injurious and demoralizing practice.' The Chamber of Commerce at Karachi is of opinion that it would be sufficient to pass a short Act 'making the false stamping of lengths and the false labelling of quantities punishable,' and that 'to legislate further than this at present would be a mistake'. And the Chamber of Commerce at Rangoon 'is of opinion that it would be better to make no change in the existing law at least until some further experience has been gained of the working of the new Act in England.'

"This summary of recent correspondence shows that the great bulk of mercantile opinion in India is in favour of early legislation, and this is certainly the view of the mercantile community in Great Britain who are interested in Indian trade. It was recently stated in the House of Commons that falsely-marked goods which were precluded from shipment in British vessels were being shipped to India from foreign ports in foreign bottoms, and this statement receives singular confirmation from an article in the Austrian *Archiv für Gesetzgebung und Statistik* for June last. Discussing the probable effect of the English Merchandise Marks Act if applied to British India the writer says:—

'One of the objects aimed at by this law is to do away with foreign marks calculated to mislead as to the foreign origin of goods. From the earliest days of the existence of this law the English customs-authorities have dealt strictly and summarily with all attempted infringements, such as marking of imports with such English words as "patented", "registered", "yard", "number", "Co.", &c. Such rigid enforcing of the new law came as a surprise even in English circles, and gave rise to a movement, headed by the London Chamber of Commerce, in favour of a less stringent enforcement of this Act, but as far as we know without success. Austro-Hungarian trade is now threatened by the proposed application of the Merchandise Marks Act to British colonies, and especially to British India, whither Austro-Hungary annually exports goods exceeding the value of 50,000,000 florins, some of which have English superscriptions, others fictitious English names of firms, simply because they are so ordered. Any hasty application of this law to British India would jeopardise our trade interests to an enormous extent: for not only do we import into that colony, but we also carry on a considerable export trade from it; besides, we have goods to the value of hundreds of thousands of gulden lying at the custom-houses there which would be in daily danger of seizure, to say nothing of the hundreds of thousands worth of goods which are on their way and doomed to meet a similar fate, since it would be impossible to send back goods made a certain specified pattern and consigned to a specified place in case of any sudden application of this law to the country, so as to alter them in accordance with the law. The situation is the more serious from the fact that Austro-Hungary manufactures goods only to order, which orders it sometimes take months to execute; from this would result further enormous losses, for the goods would probably be half manufactured, the manufacturers still fearing confiscation in case of their being completed and sent. The orderer of the goods in India would not be the loser, for he could truly plead that he never received the goods, while the

manufacturer dare not make any alterations in the goods on his own responsibility, as he is bound to deliver the goods manufactured as per order. His position, therefore, is awkward and unenviable, as he is bound to lose either way. It is well then for all manufacturers to take warning of the dangers threatening their trade with British colonies in case the Merchandise Marks Act be applied as is contemplated.'

"It would be impossible to state the case of the counterfeiters with greater frankness. 'English superscriptions' and 'fictitious English names of firms' are applied to goods 'simply because they are so ordered.' I need only say, in answer to their representation that, while putting a stop to practices of this kind, the Government of India will gladly welcome the manufactures of Austro-Hungary if they come on their own merits and not under false pretences, and that the trade need not suffer by being more honestly conducted.

"There is another form of counterfeiting which, while more hypocritical, is scarcely less deceptive. Let me illustrate it by two examples. Messrs. Curtis and Harvey are well-known manufacturers of gunpowder, who pack their powder in canisters of a particular shape, upon which are placed labels printed in an old fashioned type. The canisters and labels are closely imitated, but the name of the firm is printed Cubtis and Marvey, by which ingenious device the counterfeiter seeks to shelter himself against a prosecution or the confiscation of his goods. In like manner 'Calvert's' soap becomes 'Galbert's' soap, and similar immunity is obtained.

"A more mischievous form of fraudulent marking is defended on the ground of a so-called custom of trade. Piecegoods are made up in certain nominal lengths, which are marked sometimes on the cloth itself, sometimes on a label; but the length marked and the actual length seldom correspond. The Deputy Collector of Manbhoon, who made a local enquiry to ascertain how far piecegoods sold in the markets of the interior are really of the quantity marked upon them, reports,—

"The shopkeepers say that, unless specially questioned, they do not, while selling the goods, disclose the shortness of length and breadth. It is evident that much deception is thus practised. The generality of people regard a yard as equal to two *haths*. When a customer demands a *panchgasi* piece, wishing for a piece of 10 *haths*, a piece marked five yards but really less than five yards is handed to him. If he unsuspectingly receives it, as he frequently does, he ultimately finds that he has been cheated.'

"There is unfortunately no doubt that this is not an exceptional state of things, but that a system of selling by false lengths is widely prevalent in India. The importer knows the lengths are falsely marked. So does the wholesale merchant. So frequently does the retail dealer. The victim is the up-country customer, who, when he gets home, finds he has paid for more than he has got, and is too poor and ignorant to obtain redress.

"In this matter of short measure the blame cannot be transferred to foreign shoulders. The evidence taken before the Committee of the House of Commons in 1887 discloses the existence of a system of false marking in England for the Indian market. Shirtings marked 39 are, it is stated, very often found to run 'one, two and even more yards short of the length indicated by the figures, which figures are generally accepted to mean yards.' Hanks of yarn which should be 840 yards really contain only 720 yards, and often much less. Piecegoods are exported to India marked 50 and 6, meaning 50 inches wide and 6 yards in length, which are found to measure only 47½ inches and 5½ yards. Accordingly, a Madras merchant, writing to a Manchester manufacturer, regrets that he cannot order such goods as his correspondent offers, adding:—'There is nothing wrong with them, excepting that they are too honest both as to width and length.' Another Indian merchant writes:—'False stamping is still being extensively carried on. We saw 200 bales of grey dhoties the other day, measuring from 7½ yards to 9 yards, all stamped 10, without yards: they were stamped in this way at the special request of the buyer.' Instances of this sort might be multiplied. Indeed, the evidence of the Manchester witnesses showed clearly enough that the marks of length and width were affixed with intent to deceive, the words 'yards' and 'inches' being purposely omitted.

"Nor is it only in regard to imported goods that this fraud occurs. Local manufacturers have followed the bad example, and some of the Bombay mills are, I am sorry to say, known to be special offenders in this respect.

"In endeavouring to deal with these and other forms of fraudulent marking of goods, I have sought as far as possible to proceed upon the lines of the existing law, and to frame the new provisions of the Bill with a careful regard to the circumstances of the people of this country.

"The old Acts relating to the subject are the Penal Code and the Sea Customs Act. The former makes the forgery of a trade mark and the use of forged trade marks penal; the latter forbids the importation of goods bearing forged trade marks of manufacturers resident in the United Kingdom or British India. It is obvious that these enactments are insufficient to prevent the evils complained of. The policy of the law is now to introduce an entirely new offence which to some extent is independent of trade marks properly so called, namely, the offence of applying any false description to goods whereby purchasers may be deceived, and to extend the protection now afforded to British and Indian manufacturers to the manufacturers of all countries with which we have reciprocal relations.

"Looking at the matter in the light of facts, it appears to me that the main thing to be done is to prevent the introduction into this country of falsely marked merchandise. The simplest way of accomplishing this is by an extension of the provisions of the Sea Customs Act, VIII of 1878. And in order to prevent the dealing in such goods, when imported into or manufactured in this country, I propose certain necessary amendments in the Penal Code, and to put the use of false trade descriptions very much on the same level of criminality as the use of forged trade marks.

"The definition of trade mark in section 478 of the Indian Penal Code, as 'a mark used for denoting that goods have been made or manufactured by a particular person or at a particular time or place, or that they are of a particular quality,' though very wide, is practically insufficient. I propose to amend it so as to include 'any trade mark which is registered in the register of trade marks, kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.' And I adopt the definitions of 'trade description' and 'false trade description' given in the English Act.

"Proceeding upon this basis, while retaining the existing provisions of the law in their full severity against persons who fraudulently use or counterfeit trade marks, I propose that persons dealing with goods bearing false trade marks shall escape punishment if they are able to prove that after taking reasonable precautions they had no ground to suspect the genuineness of the mark, and that they gave all the information in their power as to the source from which the goods were obtained, or that otherwise they had acted innocently in the matter. In this way it will be possible to trace the goods to the importer or manufacturer, who is the real culprit deserving punishment.

"Similar provisions are proposed in regard to false trade descriptions. Other sections provide for unintentional contravention of the law, and for the forfeiture of goods after conviction.

"The amendment of the Sea Customs Act will, however, as I have already observed, afford the most effectual remedy against the trade in fraudulently marked goods. By section 18 (d) of the existing Act, the importation, by sea or land, into British India of articles bearing any names, brands or marks being or purporting to be the names, brands or marks of manufacturers resident in the United Kingdom or British India, and not made by such manufacturers, is prohibited. It is proposed to amend the section by extending the prohibition to goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889; and also to goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced

in a place beyond the limits of the United Kingdom and British India, and

(ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark.

Of course, the successful working of these provisions of the Act will depend on the extent to which the mercantile classes co-operate with the Custom-house authorities. The difficulty is likely to be greater here than at home. The Custom-house in England still deals with many dutiable articles of vast importance to the revenue, and has a stringent system of examination and a large staff. In India the same agency has to deal with very few dutiable articles, and the examining staff is small. It is therefore provided that—

'The Governor General in Council may make, revoke and vary regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.'

"Under these regulations the rights of all parties will be safeguarded, and it is not likely that the authorities will be put in motion without sufficient cause.

"These are the principal provisions of the Bill, which I propose to submit for consideration by a Select Committee in Calcutta, and which I commend meanwhile to the careful attention of the mercantile community. I ought to add that in dealing with the provisions of the English Act I have derived much valuable assistance from a communication with which I have been favoured by Mr. Follett, Solicitor to the Commissioners of Customs in England, pointing out various particulars in which that Act has been found, in practice, to be susceptible of improvement."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States be referred to a Select Committee consisting of the Hon'ble Sir Charles Aitchison, the Hon'ble Mr. Elsmie and the Mover, with instructions to report at the next meeting of Council.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 25th October, 1888.

S. HARVEY JAMES,

SIMLA;

The 19th October, 1888.

Secretary to the Government of India,

Legislative Department.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 27, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS UNDER THE PROVISIONS OF
THE ACT OF PARLIAMENT 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 25th October,
1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland, C.S.I.

The Hon'ble Nawáb Sir Nawázish Ali Khán, K.C.I.E.

The Hon'ble G. R. Elsmie.

PUNJAB COURTS BILL.

The Hon'ble MR. ELSMIE moved that the Report of the Select Committee on the Bill to amend the Punjab Courts Act, 1884, be taken into consideration. He said:—

“The amendments which have been suggested do not affect the principles of the Bill. The Committee propose that the periods of limitation for appeals

should be assimilated to those prescribed for appeals under the Punjab Tenancy and Punjab Land-revenue Acts, namely, thirty days where the appeal lies to the District Court, and sixty days and ninety days respectively where the appeal lies to the Divisional or Chief Court.

"The Committee recommend that a special period of limitation, namely, thirty days, should be prescribed for applications to the Chief Court for the revision of orders refusing applications for certificates under section 40 (2), and also that the Act should not come into force until the 16th November next. It is not likely that Your Excellency's Council will be inclined to take exception to any of the amendments suggested by the Select Committee. I may, therefore, pass on at once to offer a few remarks on certain criticisms of the proposed law which have come to my notice.

"It has been said that the civil appellate system introduced into the Punjab by the Act of 1884 was a harsh measure which entailed great hardship on the people by the restrictions on appeal which it imposed, and it is argued that, if any change is to be made, it should take the form of increasing rather than of further restricting the right of appeal to the highest Court. In opposition to this view I have heard it stated that the Bill does not go far enough in the way of restricting appeals and thereby preventing the peasantry of the province from ruining themselves by the expense of unnecessarily protracted litigation. The first of these arguments no doubt mainly takes its rise from the fact that in the early days of British rule in the Punjab very great liberty of appeal was permitted in civil cases. During the last 22 years that liberty has by degrees been considerably curtailed, but its tradition remains, and every fresh restriction has not been welcomed by the legal practitioners—a body which was virtually non-existent in the Punjab a quarter of a century ago but which has now become numerous. My own personal experience extends from the year 1858, and I can remember that until the establishment of the Chief Court in 1866 the pettiest decree in a small cause case could be appealed both on facts and law, first, from an Assistant Commissioner to the Deputy Commissioner, then from the Deputy Commissioner to the Commissioner of the division, and, lastly, from the Commissioner to the Judicial Commissioner sitting at Lahore. I have still a vivid recollection of a suit for the division of some seventy or eighty rupees on account of priests' fees brought by certain Brahmans against their rival co-sharers, which cost me considerable trouble to decide, and which excited so much party feeling that it was carried by the litigants themselves, without the aid of lawyers, through the various Appellate Courts I have mentioned, to the Judicial Commissioner. The justification of this liberal system of appeal lay in the inexperience of subordinate Courts, both original and appellate. When I arrived at my first station I had never been in a Civil Court in my life, but my Deputy Commissioner told me that I must immediately prepare to decide about a hundred civil suits a month, as there was no one else to dispose of them. Two or three days were given me to look through the records of cases decided by my predecessor and to study Sir Richard Temple's *Punjab Civil Code*, and I was then ordered to set to work and to make the best of it. In many instances Appellate Judges had to begin without much greater experience. Military officers were appointed direct from their regiments to be Deputy Commissioners, and Civilians from the North-Western Provinces, who had never tried civil suits, either original or appellate, were appointed to be Deputy Commissioners and Commissioners in the Punjab, and were required to dispose of the work of Civil Courts, to which they had been previously unaccustomed. At this period the description of the appellate system quoted in this Council by the Hon'ble Mr. Ilbert, namely, that it was 'a sifting of cases through a succession of bad Courts in the hope that they will come right in the end', was perhaps not altogether inappropriate, and it is easy to understand how the people of the country became thoroughly accustomed to the system of three appeals,—first, to the head of the district; secondly, to the head of the division; thirdly, to the Judicial Commissioner at the provincial head-quarters,—and have been somewhat unwilling to part with a privilege which they valued.

"Improvement in the work of the Courts however rapidly took place, and soon after the constitution of the Chief Court in 1866 it was found possible to

extend, with certain modifications, the appellate provisions of the Indian Civil Procedure Code to the Punjab. From that time until the passing of the Punjab Courts Act of 1884, second appeals to the Chief Court were allowed on points of law and custom where a District or Divisional Appellate Judge confirmed the orders of the Courts below, while further appeals on law and fact were permitted where subordinate Appellate Courts varied the decrees of the original Courts.

"This system was eventually superseded by the Act of 1884—a measure based upon lines suggested by the Government of India and which were fully discussed in the correspondence and in the debates of this Council.

"I have already shown in the remarks made by me on the 2nd instant the reasons which, in the opinion of Government, have made the further amendment of the Punjab system imperative; but I think it may be useful if, in reply to critics who think too much is being done in the way of restriction, I attempt to show what will be the actual difference if this Bill is passed between the civil appellate system in the Punjab and that existing in the regulation provinces.

"In regard to small cause suits not exceeding five hundred rupees in value and in regard to all suits exceeding five thousand rupees in value the law of appeal will be precisely the same in both territories. In all suits from one thousand rupees to five thousand rupees in value, and in all suits relating to agricultural land where a first Appellate Court has varied the original decree otherwise than as to costs, the law of appeal in the Punjab will be far more liberal than in the North-Western Provinces. In these cases a second appeal on law and facts will be allowed to the Chief Court in the Punjab; whereas in provinces where the Civil Procedure Code is in force the limited second appeal on points of law only is allowed. In regard to these cases then, in the Punjab, it would obviously be impossible to make greater concessions to the advocates of free appeal, and the apology, if any, is due to the critics who cannot see why Punjab litigants should have greater freedom of appeal than litigants in other provinces.

"The answer given to this objection is contained in the Government of India, Home Department, despatch No. 1461, dated 10th September, 1882, an answer which has been emphatically accepted more than once by the Chief Court and the Government of the Punjab, namely, that 'no appeal can be satisfactory in which the upper Court is unable to go into the whole case.'

"In regard to small causes ranging in value from five hundred to one thousand rupees, and to all other suits save land-suits in which the first Appellate Court varies the original decree, certain restrictions, not without compensating qualifications however, will be found in the Punjab system. In cases of this description a second appeal on points of law only is allowed in the regulation provinces, but in the Punjab no second appeal will ordinarily be allowed unless the first Appellate Court shall certify that a question of law or custom is involved and that the case is of sufficient importance to justify a further appeal. In the event of the first Appellate Court declining to grant such certificate, the Chief Court may nevertheless admit an appeal and proceed to deal with the whole case. Now it is clear that, in all cases in which an appeal on certificate is allowed, the Punjab appellant has a much wider field than an appellant under the ordinary Civil Procedure Code; and it is only in the cases in which a Divisional Judge and the Chief Court hold that no point of law or custom or of general interest is involved, and that the case is not important, that further appeal will be denied. This being so, I think it will be difficult, speaking generally, to maintain the position that in the classes of suits with which I am now dealing the right of appeal in the Punjab will be more restricted than in regulation provinces. May it not be argued that the 'complete justice' which the Chief Court will be able to administer in certificate appeals taken as a whole may equal or more than equal the limited justice which the High Courts can at present dispense in second appeals in these cases? In connection with this matter I have the express authority of His Honour the Lieutenant-Governor to state on his behalf that he would be strongly opposed to the extension to the Punjab of the Civil Procedure Code system of second appeals on points of law in all suits other than small causes not exceeding five hundred rupees in value. Sir James Lyall believes that this system has been much abused in other parts of India, so much so that high authorities have proposed to abolish it, and His Honour is certain that it would be greatly abused in the Punjab, where it would lead to the institution of a vast

number of infructuous appeals ruinous to the appellant and profitable only to legal practitioners and to the stamp-revenue. The requisites of the case are, Sir James Lyalls thinks, amply met by the certificate appeal on points of law and custom allowed by the Punjab Act, and sub-section (2) of section 40 of the present Bill much strengthens the power of the Chief Court in this direction by giving power to revise an order refusing a certificate. In all other respects the Lieutenant-Governor considers that the existing Punjab law, instead of being more stringent, allows a far greater license of appeal and will do so also when amended by the present Bill, and he thinks that the restrictive amendments now proposed are so moderate and so much required for other reasons besides those of a financial nature that they may be safely passed without delay.

"There is, however, one description of suits in which in my own opinion the Punjab litigant will certainly be worse off than his North-West brother, and these are the 'unclassified suits' not exceeding one hundred rupees in value. In such cases a second appeal on points of law is allowed in the regulation provinces. In the Punjab under the Bill no second appeal of any kind will be permitted. I confess that this provision in the proposed law hardly commends itself to my personal judgment, and I should have been glad had it been deemed practicable to allow a certificate appeal in these cases. The Chief Court and the Local Government are, however, of opinion that the proposed restriction may safely be imposed. The Lieutenant-Governor considers that a law which takes litigants to a distance from their homes and encourages them to institute further appeals in suits of small value up to the highest Court of the province, where lawyers' fees are of course heavy, is a law which on the whole does much more harm than good.

"Before I conclude I am anxious to say a word or two in regard to the Punjab law of revision in civil cases as contained in sections 70 and 71 of the Punjab Courts Act. It is asserted by critics that this law as compared with the revision law in other provinces is, by reason of its narrowness, little better than a farce, while the fact that full appeal stamps are chargeable on applications for revision presses very hardly on poor litigants. The first objection may be satisfactorily met by a reference to a recent judgment of the Privy Council—*Raja Amir Hasan Khan v. Sheo Baksh Singh* (L. R. 11 I. A. 237)—which has virtually limited the civil revision law for India to that which was introduced into the Punjab in 1884. In regard to the second objection I think there need be no hesitation in exacting the full stamp in a province where applications for revision are still so recklessly made that the Chief Court finds it necessary to reject 88 per cent. of them *in limine*. If we could ensure that applications for revision should only be presented upon the advice of good counsel who would dissuade their clients from persevering in hopeless cases where no shadow of a legal ground for revision exists, there might be little hesitation in reducing the stamp; but so long as ignorant litigants insist upon venturing a last stake in what they regard as a judicial lottery, and so long as they are encouraged in this course by some unscrupulous legal practitioners, who must surely be aware of the futility of the attempt, the question seems to be not whether the existing stamp restrictions on applications for revision should be relaxed, but whether they should not be increased.

"On the general question of revision I may say that for myself I look forward with hope to a time when in the Punjab as well as in other parts of India it may be possible to act on the suggestion of the present Chief Justice of Bengal, referred to by the Hon'ble Mr. Scoble in a speech made in this Council on the 10th March last, namely, to do away with second appeals altogether and to substitute for them a right of application to the High Court in all cases in which it could be shown that a failure of justice had taken place. *Prima facie*, I am strongly in favour of a system which would give the highest Court complete power of interference in every case, but which would expect the Judges to refuse to correct minor and technical errors of the lower Courts where substantial justice has been done."

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also moved that in the second proviso to section 40, sub-section (1), of the new Chapter to be substituted for Chapter IV of

Act XVIII of 1884 by section 5 of the Bill, the words "not amounting to one thousand rupees or upwards" be substituted for the words "not exceeding one thousand rupees".

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also moved that in section 43 of the new Chapter to be substituted for Chapter IV of Act XVIII of 1884 by section 5 of the Bill, after the figures "40" in the third line of sub-section (1), the words "and for an appeal from an order from which an appeal lies", and after the word "decree" in the fourth line of the same sub-section, the words "or order", be added.

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also moved that in section 44 of the new Chapter to be substituted for Chapter IV of Act XVIII of 1884 by section 5 of the Bill, the words "is one thousand rupees or upwards" be substituted for the words "exceeds one thousand rupees".

The Motion was put and agreed to.

The Hon'ble MR. ELSMIE also moved that the Bill, as amended, be passed.

The Hon'ble MR. SCOBLE said:—

"Before this Motion is put I should like to say a few words with reference to one objection to the proposed legislation to which my hon'ble friend Mr. Elsmie has not adverted. It is said that this Bill is being hurried through Council. It is no doubt true that it was introduced only three weeks ago, and that this is a shorter time than is usually allowed for measures of such importance. But the quick passage of a Bill through Council by no means implies hasty legislation. It certainly does not in this case: the time spent in discussing and settling the details of the Bill has been long, though the interval between its introduction and its enactment may be short. The subject-matter of the Bill has been under consideration in the Punjab for years. An attempt was made to settle the question in 1884, when an Act was passed to amend the law relating to the Courts in this Province. The system prevailing at that time with regard to appeals was of the happy-go-lucky character described by my hon'ble friend, and loudly called for the amendments of the law then introduced. As my hon'ble friend has told us, the attempt made in the Act of 1884 to remedy the evil has not succeeded, and those responsible for the administration of the law have had to devise other means for dealing with the congestion of appellate business in the Courts. Last year it was hoped that the appointment of two additional Judges to the Chief Court would bring relief; but no such result has followed. The arrears show no sign of diminution in spite of the labours of the increased numbers of the Bench. The question is not a question of expense, but a question of obviating delays which, in many cases, are tantamount to a denial of justice.

"I cannot better describe the existing state of things than by quoting what was said on the same subject by my hon'ble friend Mr. Ilbert in 1884. 'It must be borne in mind,' he said, 'that the great mass of the cases which come before the Court—a large proportion I believe of those which under the existing system find their way up to the Chief Court—are of the most petty and simple description, involving no important question of law or custom whatever, and requiring for their disposal nothing more than a little commonsense and patience. Having regard to the means at our disposal, are we justified in allowing the time of the most expensive Courts to be occupied with cases of this description? As has been often said, no man has a right to unlimited draughts on judicial time and judicial power. To grant an unlimited right of appeal is not fair to the general taxpayer, and is a cruel kindness to the suitor himself. I am told by those on whose authority I am entitled to rely that among many classes in the Punjab it is a point of honour to prosecute an appeal, however hopeless may be the case and however trifling may be the stake, to the utmost, and notwithstanding the knowledge that, even if the appeal is successful, the costs to be paid will far outweigh the stakes. The unsuccessful suitor feels himself disgraced if he does not carry his appeal as far as the law will allow him to go, and it is not until recently that he has, with the help of his

legal advisers, found out how very far that is. If the law would, in such cases, interpose a friendly obstacle to his further progress in the path of appeal, his honour would be satisfied and his pocket would be benefited. I hold then that we are justified, both in the interest of the general taxpayer and in the interest of the particular suitor, in placing some limitation on the right of second appeal, and that this limitation may reasonably be framed with reference both to the nature of the suit and to the value of its subject-matter.

"It will thus be seen that, in the Bill now before the Council, we are taking no new departure, but are merely carrying out principles which were laid down four years ago as not only right in themselves but appropriate to the circumstances of the Province. The measure comes before us, moreover, stamped with the approval of the executive Government and of the Judges of the Chief Court of the Punjab. The further limitation of appeals which it proposes is not unreasonable. While petty cases are left to be decided by the tribunals of first instance, a clear distinction is maintained between suits relating to land and other suits, and greater latitude is allowed in cases of the former class, which involve stronger feelings, and as to which the decision of a single Court might not be accepted as satisfactory. In other cases the value of the subject-matter becomes the test; and, in order to secure that all really important cases may find their way up to the Chief Court, it is provided that an appeal to that tribunal shall lie, not only upon the certificate of a Judge of the Divisional Court that there is a question of law or custom involved, and that the case is of sufficient importance, in his opinion, to justify a further appeal, but also when such a certificate has been refused, if the Chief Court is of opinion, upon an application made by one of the parties, that a further appeal ought to be allowed. These proposals are the result of careful thought and large experience; and the concurrence of opinion of both the executive and judicial authorities of the Province may surely be accepted as a guarantee that this is no hastily devised scheme for the relief of the Exchequer but a well-matured effort to improve and facilitate the administration of justice.

"As His Honour the Lieutenant-Governor is unable to be present to-day, I venture to quote a few paragraphs from a letter which he has addressed to the Government of India with reference to this Bill:—

"Though, no doubt," he writes, "the present Bill has been brought forward as an urgent measure because it has been found that even a Chief Court of six Judges is unable to cope with the appellate work imposed on it by the law of appeal as it stands, yet personally Sir James Lyall would have been unwilling to recommend legislation to restrict appeals from financial reasons only. It is mainly because His Honour is himself convinced that the law as it stands allows a license of appeal which is unnecessary, and on the whole injurious to the people, that he has recommended the amendment of the law; and he is aware that this view is shared by some at least of the Judges and by many experienced officers of the Punjab Commission. And among the peasants who form the great bulk of the population of the province it is a common saying that they are being ruined by the length of litigation and by the inordinate cost of legal practitioners' fees."

"Speaking for myself, I entirely agree with His Honour that the curtailment of appeals will not only relieve the congestion of the Courts but promote the prosperity of the people. It is no doubt satisfactory to find that the Punjabi cultivator is turning his sword into a reaping-hook and his spear into a plough-share, but the satisfaction is lessened by the discovery that he has only changed the arena of conflict, and that, instead of meeting his enemy in the battle-field, he encounters him in the Law Courts. The passion for litigation is not unnatural, and may be in some degree commendable; but, if left unchecked, it conduces mainly to the benefit of the *wakil* and the *sahukar*—two classes whose growth in influence is not an unmixed advantage to the community at large. The nice adjustment of a boundary is dearly purchased at the expense of mortgages on both the conterminous properties; and it is scarcely worth while to fix whole families or localities in the grip of the usurer in order to establish a custom which would probably be more honoured in the breach than in the observance. To the speculative or vindictive mind there is a pleasure in pursuing an antagonist from Court to Court and taking advantage of what is called 'the glorious uncertainty of the law'; but my experience has satisfied me that appeals are more favoured by lawyers than by litigants, and that many a suitor would be content with the judgment of the original Court if his legal adviser did not lure him with the bait of possible success in the Court above. Such advice is very apt

to be given on very insufficient grounds, and to be attended with very disastrous consequences to all but the giver. If one of the effects of the Bill is to relieve legal practitioners from this temptation and to make them more careful in their conduct of suits in the original Courts, an immense advantage will be gained.

"For these reasons I support the Motion of my hon'ble friend that this Bill be now passed."

The Motion was put and agreed to.

KING OF OUDH'S ESTATE BILL.

The Hon'ble MR. SCOBLE moved that the Bill to make further provision for the administration of the estate of His late Majesty the King of Oudh be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill be passed.

The Motion was put and agreed to.

SHAN STATES BILL.

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill to supplement the provisions of the Upper Burma Laws Act, 1886, with respect to the Shan States, and applied to His Excellency the President to suspend the Rules for the Conduct of Business.

His Excellency THE PRESIDENT declared the Rules suspended.

The Hon'ble MR. SCOBLE moved that the Report be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

He said:—

"The amendments which the Select Committee has made in the Bill have been made on the recommendation of the Chief Commissioner. Sir Charles Crosthwaite advises, in the first place, that the whole Act should come into force on such date as the Chief Commissioner may prescribe, in order that he may have time to frame the necessary rules and orders for the conduct of the administration in the various States. Secondly, he submits that, as there are many Shan States, and there may be frequent changes in the personality of the Chiefs, it would be very inconvenient if it were necessary to report every change of administration (however insignificant) in any State for the approval of the Government of India, and if every officer appointed to a share in such administration were debarred from exercising his powers until such approval had been signified. In the third place, he suggests that it is desirable to give power to the Chief Commissioner to declare that certain cases or classes of cases, either civil or criminal, as, for instance, cases in which soldiers of Her Majesty's Forces or European British subjects are concerned, should be tried by British officials and not by the Sawbwas or their deputies. Fourthly, he thinks it necessary that the Superintendent of the Shan States should have power to withdraw particular cases from the jurisdiction of a chief and to deal with them himself or by one of his subordinates, and that he should also have authority to modify or annul orders or sentences which he considers contrary to justice or to the spirit of the law in force in the rest of British India. And, finally, he suggests that cases may arise in which it may be incumbent on the Government to undertake temporarily the entire administration of a Shan State, and that this contingency should be provided for.

"The Select Committee considered these proposals reasonable and judicious, and the Bill has been recast so as to carry them into effect. They involve no change of principle in the Bill as introduced, and I hope they will meet with acceptance by the Council, as it is important to bring the Act into operation without unnecessary delay."

The Motion was put and agreed to.

46 & 47 Vict.,
c. 57.

trade mark which is registered in the register of trade marks kept under the Patents, Designs, and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, were made or manufactured by a person by whom they were not made or manufactured, or that they were made or manufactured at a time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods were made or manufactured by a particular person or firm by whom they were not made or at a time or place at which they were not made or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

"488. Whoever makes use of any such false mark in the manner last aforesaid shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against the last foregoing section.

"489. Whoever removes, destroys or defaces any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Trade Descriptions.

[50 & 51
Vict., c. 28,
s. 3 (2).]

4. (1) The provisions of this Act respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

[50 & 51
Vict., c. 28,
s. 3 (3).]

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connexion with goods of the same description and not having authorised the use of such name or initials.

[New.]

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

[50 & 51
Vict., c. 28,
s. 5.]

5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or
- (c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or
- (d) uses a trade description in any manner calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to two years or with fine which may extend to five hundred rupees.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

- (a) that having taken all reasonable precautions against committing an offence against this section he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to two years or with fine which may extend to five hundred rupees.

Unintentional Contravention of the Law relating to Marks and Descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged, and

Unintentional Contravention of the Law relating to Marks and Descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

Unintentional contravention of the law relating to marks and descriptions.

ceptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged, and

and

RAILWAYS BILL.

The Hon'ble MR. SCOBLE also moved for leave to introduce a Bill to consolidate, amend and add to the law relating to Railways in India. He said:—

"It is now just four years since my hon'ble friend Sir Theodore Hope obtained leave to introduce a Bill to amend and consolidate the railway law of India, explaining that the provisions of his proposed measure were only in rough draft, and would need to be referred to Local Governments, Chambers of Commerce and Railway Administrations throughout India before its introduction into Council. The period that has since elapsed, though undoubtedly long, has not been altogether unprofitably spent, for it has enabled those charged with the preparation of the Bill which I now submit to avail themselves not only of the criticism to which my hon'ble friend referred, but also of recent discussions and legislation in England, and of the practical experience of the Railway Conference which assembled during the present season at Simla.

"When the first Indian Railway Act was passed in 1854, only 20 miles of railway had been opened in this country. Twenty-five years later, when the consolidating Act of 1879 was passed, there were 8,216 miles of open line and 48 junctions. There are now 14,191 miles of open line and 118 junction stations. A traveller can now book through north to south from Kila Abdulla in Baluchistan to Tuticorin, a distance of 3,033 miles; or west to east from Karachi to Darjeeling, a distance of 2,397 miles; while the passenger landing from Europe at Bombay will next year have the choice of four alternative lines to Agra, two to Madras, and two to Calcutta. The number of separate lines has increased from 26 in 1879 to 50 in 1888. The capital expended on Indian railways has grown from 131 millions in 1879 to over 183 millions sterling in 1887; the number of passengers carried has swelled from 44,261,227 in 1879 to 96,082,121 in 1887; the aggregate tonnage moved amounted last year to 20,195,677 tons as compared with 8,773,739 tons in 1879; and the gross receipts have risen from £11,952,590 in 1879 to £18,450,622 in 1887.

"This vigorous expansion of business, developed by the establishment of through routes and (in some cases) of competing lines, renders it necessary to adapt the railway law of India to the new condition of things. Statutory provisions which worked well enough when each railway had its own field of operation prove insufficient when competing interests come into play; and facilities for through booking raise questions between railway administrations which could scarcely arise when each was practically the master of its own traffic. Further difficulties spring from the relation of the State to railway enterprise—a relation which it is desirable to regulate by legislation, so as to establish a clear distinction between the State as a railway proprietor and as the guardian of the interests of the community at large.

"Existing railways in India may be arranged in five classes:—

- (1) State lines worked by Companies, with a mileage of 4,762 miles and a capital expenditure of £62,415,925;
- (2) State lines worked by Government, with a mileage of 4,059 miles and a capital expenditure of £49,820,168;
- (3) lines worked by Guaranteed Companies, with 4,144 miles open and a capital expenditure of £61,712,358;
- (4) lines worked by Assisted Companies, with a mileage of 543 miles and a capital expenditure of £3,722,515; and
- (5) lines owned by Native States, with a mileage of 791 miles and a capital expenditure of £5,208,300.

"It is necessary to bear these figures in mind in order to realize the immense interest which the Government of India, as proprietor or partner or guarantor, has in the entire railway system of the country.

"The power of the Government of India in regard to some of these railways is limited, to a greater or less extent, by the contracts made with the various Companies by which the railways have been constructed or are worked. In framing the present Bill care has been taken to maintain the provisions of these contracts so far as they are consistent with a due regard to the public interest.

"The Bill is a Bill of consolidation and amendment. So far as it consolidates, the existing law has been reproduced. Minor amendments are sufficiently noticed in the Statement of Objects and Reasons annexed to the Bill. I need only now refer to those of greater importance.

"These will be found principally in Chapter V, and are aimed at securing proper and impartial facilities for traffic. Under contract and otherwise the Government has power to fix maximum and minimum rates and fares for the carriage of passengers and goods, and Railway Administrations are allowed to alter their charges, within the prescribed maxima and minima, so as to suit the varying conditions under which their business is carried on. But although Government, in the exercise of a wise discretion, ordinarily abstains from direct interference with rates, there are certain ruling principles with which it is bound, on behalf of the public who use the railways, to require compliance. There should be no undue preference; in other words, Railway Administrations ought not to be permitted to make preferential bargains with particular customers, such as granting them scales of charges more or less favourable than those granted to the public generally. Again, in cases where the traffic offering is sufficient to justify this arrangement, Railway Administrations ought to give reasonable facilities for public traffic between any two railway stations, each Administration being contented to receive for its share of the through rate less than its ordinary local rate. The justice of this is evident when it is considered that all traffic can be carried for long distances at lower rates than for short distances; so that, if each Railway Administration were to charge its full local rate over its own comparatively short length of line, the aggregate would be so great as to restrict the traffic. Sir Bradford Leslie has laid down the true principle in the following words:—

"The various railway systems should, as far as possible, serve the country as if they were under one management, and the dealer in country produce should not be hampered in his operations by the necessity to base his calculations on as many different scales of rates as there may be railways between the starting point and destination."

"These reasonable advantages are secured to the British public by the Bill proposed. Closely following the law in England, the Bill imposes on Railway Administrations the general duty of receiving, forwarding and delivering traffic without unreasonable delay and without partiality or undue preference, and the special duty of so treating through traffic at through rates. If the Governor General in Council is satisfied that any person has just ground of complaint against a Railway Administration for breach of either duty, he may refer the case to a Railway Commission for decision. Such a Commission is to be appointed only when there are cases to be referred to it, and it will be deemed to be dissolved as soon as it has decided those cases. It is to consist of a Law Commissioner, who is to be a Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Governor General in Council has ordered the Commission to sit, and of two Lay Commissioners, of whom one must be an expert in railway business, and one may be a representative of the mercantile community or any other person whom the Governor General in Council sees fit to appoint. The Commission so constituted may in any case referred to it make any order, by way of injunction, which may in the circumstances appear to the Commissioners to be suitable. If two of the Commissioners concur upon a question of fact, their decision on that question is to be conclusive. From other decisions of the Commissioners an appeal will lie to a bench of not less than three Judges of the High Court of which the Law Commissioner was a member or, from a decision of a Railway Commission in Burma, to such a bench of the High Court of Judicature at Fort William in Bengal. Orders made by a Railway Commission are to be enforced by the High Court of which the Law Commissioner was a member as if they were orders made by the High Court in the exercise of its original civil jurisdiction.

"In thus fixing the constitution and powers of the Railway Commission, and making it a temporary instead of a permanent tribunal, regard has been had to the fact that the existence of such a tribunal in England has had a most potent effect in inducing railway managers to come to a reasonable understanding on

points of difference; and it is hoped that similar results will be attained in this country.

"Chapter VII relates to the responsibility of railway administrations as carriers, and follows the rule embodied in section 10 of the Indian Railway Act, 1879. There have been very few complaints against the practical operation of this rule, which is based upon a judgment of the Bombay High Court reported at I. L. R. 3 Bom. 109; and, though the soundness of that judgment has been questioned, the Government of India, as at present advised, is of opinion that experience does not justify any material modification of existing legislation. But as a railway is defined in the Bill to include all 'ships and boats which are used on rivers and other inland waters for the purposes of the traffic of a railway and which are under the direct control of the authority administering the railway', and as, under this definition, a through rate may cover water as well as land carriage, it would seem only equitable to place Inland Navigation Companies on the same footing as to responsibility with Railway Administrations; and I shall be glad to have the opinion of the mercantile community upon this point.

"It may be convenient, in connection with this question of responsibility, to refer to a proposal to give railway receipts the same effect as bills of lading. This proposal has not been adopted. The two classes of documents stand upon an entirely different footing. The principle upon which the negotiability of bills of lading is based, namely, that for a long period the goods, and the captain in charge of them, cannot be communicated with, does not apply to railway carriage with telegraphic communication. Indeed, it may be doubted whether, in these days of quick voyages, the law as to bills of lading would ever have come into force. If the law were altered so as to place railway receipts on the same footing as bills of lading, and a statutory form of delivery order were prescribed under which Railway Administrations were subjected to the same responsibilities as shipowners, they would become liable for the proper delivery of the goods to the party entitled under the order, whether as endorsee or otherwise. As a consequence of this the railway company would have to take into consideration questions as to irregular and forged endorsements, and, in the event of goods being delivered even to an innocent holder for value when a previous endorsee's signature had been forged, the company would be liable to the right holder whose signature was forged for the goods so delivered. In addition to this, further inconvenience would arise in connection with the exercise by an unpaid consignor of his right of stoppage *in transitu*. At present, when a consignor and consignee stand in the relation of unpaid seller and buyer, and before the delivery of the goods the consignor finds out that the consignee is insolvent, the former has a right to stop the delivery of the goods to the consignee; but in the case of a bill of lading the consignor cannot stop the goods *in transitu* if the consignee has parted with the bill of lading and it has passed into the hands of a *bona fide* holder for valuable consideration. It follows that, if railway receipts were turned into bills of lading, questions of the good faith, and so forth, of the holder would have to be considered when an unpaid consignor attempted to stop goods *in transitu*.

"These are among the inconveniences which would result from the adoption of the proposal, and the Government of India has not deemed it advisable to impose this additional risk and responsibility on the railways in the absence of similar legislation on the subject in England.

"Returning now to the provisions of the Bill, I may advert to the sections which relate to the comfort and convenience of passengers. Sections 63 and 98 are intended to prevent and punish overcrowding; section 64 requires that in every passenger train at least one compartment of the lowest class shall be reserved for the exclusive use of females; and section 118 provides for the punishment of male intruders into carriages, compartments or rooms so reserved. Beyond laying down general rules of this kind it has been considered undesirable that legislation should interfere with the arrangements which an enlightened self-interest is usually sufficient to lead the railway authorities to make for the benefit of their customers. Exaggerated ideas appear to be entertained in some quarters as to the duty of Railway Administrations in this respect, especially as regards the lower classes of passengers. It is no doubt true that these

numbered last year 93,445,906, or rather more than 97 per cent. of the total number carried. But, as each travelled an average of only 41 miles, and paid an average fare of 8 annas and 1 pie, it seems clear (apart from sanitary and caste considerations) that bathrooms and latrines need not, and could not economically, be provided in third and fourth class carriages. Lower class earnings, large as they are, are less easily gained than the others; and the accommodation furnished must vary in relation to the fare paid and the distance travelled.

"Two other provisions of the Bill require notice. Section 131 deals with the question of the taxation of railways by municipal committees, cantonment committees, district boards and other like authorities. In the opinion of the Government of India the exemption which guaranteed and State railways enjoy in some provinces from assessment to local rates on land should be extended to all railways throughout India. As regards municipal taxes, it is considered that such as have been levied hitherto in any municipality or cantonment may generally continue to be levied there, though possibly in a commuted form.

"The other provision relates to the representation of railway administrations in proceedings before Courts of Justice, especially in criminal cases. There have been instances of subordinate Courts objecting to the manager of a State railway appearing before them by deputy, even where the attendance of the representative of the railway is required for purely formal purposes. There have also been many instances of great and unnecessary expense being imposed on railway administrations by reason of subordinate Courts refusing to allow petty prosecutions to be conducted by railway servants. Section 141 of the Bill accordingly authorizes the manager or agent of a railway to depute a subordinate officer or other competent person to act for or represent him, when necessary, in any Court.

"These are the principal enactments of the Bill, so far as it amends or adds to the existing law. In framing it especial care has been taken not to go in any case beyond recognized railway practice at home. I hope it will be found that, while duly solicitous for the public interest, a proper regard has been paid to the rights of the railway companies, and that the guaranteed companies, no less than the mercantile community and the public generally, will accept this Bill as a fair solution of difficulties which might become formidable if they were not honestly and promptly dealt with."

The Hon'ble SIR CHARLES ELLIOTT said:—"I wish to add a few remarks to those which have fallen from my hon'ble friend Mr. Scoble in introducing this Bill, chiefly in order to express my concurrence in what he has said and my belief that the Bill, when it is passed with such amendments as shall seem good to Your Excellency's Council, will be of material advantage to the interests of the great railway systems which will be affected by it, both as to their relations to each other and as regards the wants and requirements of the public which they serve.

"There are also a few points respecting which I should like to enlarge on what my hon'ble friend has said, or which have not been noticed by him but seem to me to deserve prominent attention.

"The most important portion of the Bill is, as Mr. Scoble has already said, Chapter V, dealing with the creation of a Railway Commission. We have already, since the Bill was drafted and published, received communications, both in writing, and also verbally from the delegates who assembled here last month, which throw an important light on the proposals made in this chapter and which deserve the careful attention of the legislature. The chapter empowers the Railway Commissioners to decide certain classes of dispute which arise between railway companies; and these disputes relate principally to through rates on goods. Now, it is contended by some of the older guaranteed companies that their contracts with Government confer on them an absolute power of fixing and altering the rates they charge, subject only to the limits of maxima and minima which Government has prescribed, and a fear has been expressed lest the appointment of a Railway Commission should prove to be an undue interference with their rights. I fully accept the justice of their contention, but I trust that we may succeed in gaining their consent to the provisions which will to a certain

extent restrict their powers. The argument that I would use with them is that they need not fear the introduction in India of a principle which has been adopted in England with such strong adhesion on the part of Parliament and the public, especially when they consider that the powers which it is proposed to give to the Railway Commission by this Bill are far less stringent than those which have been conferred by the Act recently passed in England, and also that in India any unreasonable interference on the part of Government is less to be dreaded than elsewhere, because the Government is not only the principal railway owner in this country but is also itself a partner in all the guaranteed railways, so that nothing can affect their interests injuriously which would not also recoil on its own head.

"Another point of considerable importance which was brought to my notice by the railway delegates last month was this. According to the provisions of the Bill there are to be three Railway Commissioners, whose qualifications have been mentioned in Mr. Scoble's speech. But the Bill does not propose that these Commissioners should sit in permanence or should always be the same. A different Judge would be selected, and probably also a different mercantile man, according as the cause of dispute arose in Madras, Bombay or Upper India. It was natural therefore to fear that these different Commissioners might pass decisions at variance with each other or not in accordance with English precedents; and it was generally felt that it is a most important thing for railway interests that such cases should be decided finally and without appeal. A hope was therefore expressed that at least the special railway officer on the Commission should be permanent and unchanged; and it was pointed out that the best selection would be made if he were a permanent Government official, who remained constantly in touch with railway work but was unconnected with the direct administration of any State line, so that it might not be suspected that he would be influenced by the clashing of Government interests with those of other and possibly competing railway systems. I think that there is a great deal to be said for this suggestion, and that it deserves the careful consideration of Government. It would be obviously impossible to appoint an official solely to the post of Railway Commissioner, not only on the grounds mentioned that if not brought into daily contact with the working of railways he would soon lose his practical grasp of the matters in dispute, but also on the financial ground that it would be impossible to retain a highly paid officer for such light and occasional work as we expect to arise before the Railway Commission. The end aimed at might perhaps be attained by giving to this officer the statistical work of collecting, checking and collating the returns sent up by the different railway systems, which work is now done in the Director General's office and the results of which are published in his annual report. I do not wish at present to pronounce any definite opinion on the possibility of carrying out this suggestion, and can only pledge myself to give it, or any other plan which would lead to the same end, the most careful consideration.

"The question of the taxation of railway property for local purposes by municipalities or other local bodies, as provided for in section 131 of the Bill, has been touched on by my hon'ble friend, who has stated that possibly it may be decided not to interfere with any amounts at present collected in this way but only to restrict such taxation for the future. Speaking in my personal capacity I confess to a hope that this legislature in its wisdom may see fit to go further than my hon'ble friend proposes. It seems to me that there is something positively unreasonable and unjust in such taxation as is now imposed by some municipalities. The *raison d'être* of municipal taxation is that it should be a payment for services rendered in the shape of sanitation, police, lighting, water-supply, road-making or any other such conveniences to dwellers within municipal limits. Now, a railway administration provides its own sanitation, police, lighting and watering, and it is, in itself, the largest possible contributor to the road communications of the municipality. To tax such an administration therefore on its rateable value just as a house is taxed, the dwellers in which benefit by all the services abovementioned, seems to me preposterous, and I trust that we may be able to remove this anomaly altogether in future.

"I may also allude here to another branch of the same subject. Guaranteed and State railways are by law exempted from the payment of local cesses

which are usually imposed on land, but private railways are not. Government has lately had before it the case of the Tarkeshwar Railway, which has been called upon by the local board of the district in which it lies to pay the local cess by which landowners contribute to the up-keep of roads. Here we have the same absurdity which I have mentioned before, but in a heightened form, the best of all possible roads being taxed to keep up other roads; and we have it applied to the detriment of a class of railways that we especially desire to foster—railways owned by private companies and unconnected with the State. I trust that the Bill now before this Council will effectually dispose of such claims to taxation as this.

"The Hon'ble Mr. Scoble has referred cursorily to the provision of latrine accommodation in third class carriages. This provision is perhaps more keenly advocated than any other reform by the Native Press, and a section (74) enforcing this provision was inserted in the first draft of the Railway Bill. The proposal was, however, condemned by every authority to which the draft Bill was referred, and it would appear to be impracticable in the present type of carriage with lateral compartments. The accommodation, if provided, would take up about 20 per cent. of the available carrying space, and would consequently necessitate a corresponding increase in the third class fares. In addition to this not only are there insuperable difficulties in keeping latrines in carriages clean and free from offensive smells and in preventing persons from using the latrines when trains are standing at stations, but there are also serious objections from a sanitary point of view to the pollution of the road itself, especially in the vicinity of towns and stations. The arrangement has been given a fair trial on several of the principal railways, and invariably abandoned for the reasons I have mentioned.

"I need hardly say that I am most anxious to meet all reasonable wishes of that great class who form more than 97 per cent. of the total number of travellers on our railways, but I think it is clear that this wish cannot be gratified without inordinate expense and without other inconveniences which are even a more serious obstacle than expense. We have therefore thought it advisable to omit all reference to this subject in our present draft.

"My hon'ble friend the Law Member in his speech has referred to the impossibility of bringing railway receipts under the law which affects bills of lading given by seagoing vessels. It may be worth while to mention in connection with this that section 81 of the Bill proposes to give one very desirable convenience to exporters from this country, in that it facilitates the through booking of goods from India to England, and *vice versa*, and will thus help to remove the difficulties which have been met with in carrying out the arrangements which Colonel Conway Gordon has made between the North-Western Railway and the Hall Line of Steamers for the through booking of goods between England and the Punjab. I hope that the encouragement thus given to this system will tend to its development and spread on other railway administrations.

"I should like in conclusion to draw public attention to a few sections which are, I think, of considerable utility, some of them as protecting the railways against the public and some as protecting the public against the railways. Under the first class I would mention section 60, which is intended to meet a case which is not uncommon now, and might probably become still more common, where a consignor falsely declares his goods to be of lower value than they really are, consigning, for instance, piecegoods under the description of old iron, or writing paper as piecegoods, in order that they may be put in a lower class and pay a lower rate. In the second class I would draw attention to section 46, which declares that the public have a right to a full explanation of all charges made by railways; and to section 75, which lays down that a railway is responsible for the value of any excepted article lost or damaged not exceeding Rs. 100. In Schedule II of the Bill a list is given of these excepted articles which must be declared and insured, such as gold and silver, precious stones, Government securities, paintings and the like. It appears that under the present law if a bundle of clothing were sent by rail, some of which had on it gold embroidery, and this were not declared, the railway might plead exemption from any loss; but in future, as now provided in this Bill, any small omission of this kind will not vitiate the owner's title to compensation up to the amount of Rs. 100.

"Lastly, section 133 extends the present law by declaring that every railway servant is a public servant for the purposes of the whole of Chapter IX of the Penal Code, and thus not only makes him liable to punishment for extortion, oppression or any similar offences, but also makes it illegal for him to trade on his own account, and thus secures to the railway, whose servant he is, the whole of his services.

"I have nothing further to say except that I trust that this Bill will receive the most careful consideration both from the railway administrations concerned and also from the travelling and mercantile public, and that with the help of such suggestions as they may supply we may be able to pass it into law at the next session of Your Excellency's Council in Calcutta."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

BURMA FINANCIAL COMMISSIONER'S BILL.

The Hon'ble SIR CHARLES AITCHISON moved for leave to introduce a Bill to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions. He said:—

"This Bill requires very little explanation. Hitherto the Chief Commissioner has been the Chief Revenue-authority in Burma. It has been found necessary, however, to relieve the Chief Commissioner of much of the work which falls upon him in that capacity and to appoint a Financial Commissioner who shall stand to the Chief Commissioner in somewhat the same relation as the Financial Commissioners in the Punjab stand to the Lieutenant-Governor. The Bill provides that the Financial Commissioner shall be the Chief Revenue-authority and shall exercise such powers as may be delegated to him by the Local Government with the previous sanction of the Governor General in Council. It also validates the proceedings of the Financial Commissioner since the date of his appointment on 1st April last."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES AITCHISON also introduced the Bill.

The Hon'ble SIR CHARLES AITCHISON also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and the Burma Gazette.

The Motion was put and agreed to.

BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR CHARLES AITCHISON also moved for leave to introduce a Bill to amend the Burma Municipal Act, 1884. He said:—

"The necessity for this Bill has arisen out of difficulties experienced in the collection of certain municipal taxes in Rangoon.

"Under section 41 of the Burma Municipal Act, 1884, taxes are imposed upon houses and lands which are recoverable jointly and severally from the owner and the occupier. Under sections 42, 43 and 44 a water-tax, a lighting-tax and a scavenging-tax are imposed; and, as is usual in the case of taxes imposed for services rendered, these are recoverable from the occupier only. Now, in Rangoon many of the houses, especially in the business part of the town, are let in portions generally to poor people on a daily tenancy and for daily rents. The occupants therefore are constantly changing, and the municipality finds the greatest difficulty alike in apportioning and in realizing the occupiers' taxes. It is estimated that out of a total demand of about Rs. 2,50,000 on account of the water, lighting and scavenging taxes, the committee will be unable, as the law stands at present, to collect Rs. 50,000. As the expenditure

under the three heads taken together considerably exceeds the total demand, the loss of 20 per cent. of the taxes is a very serious matter. It is therefore proposed to put these three taxes on the same footing as the others, that is to say, to make them payable jointly and severally by owner and occupier. On the recommendation of the Chief Commissioner the change is made general instead of being limited to Rangoon.

"It will be observed that in some respects the Bill exempts Government from the liability of an owner. The main object of this distinction is to avoid raising difficult and inconvenient questions of ownership in respect to certain Government lands on which buildings have been erected or which have been otherwise occupied without sufficient title.

"The Bill has the approval of the Chief Commissioner."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES AITCHISON also introduced the Bill.

The Hon'ble SIR CHARLES AITCHISON also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and the Burma Gazette.

The Motion was put and agreed to.

LOWER BURMA RURAL POLICE BILL.

The Hon'ble SIR CHARLES AITCHISON also moved for leave to introduce a Bill to provide for the establishment of a village-system and amend the law relating to Rural Police in Lower Burma. He said:—

"The Bill which I have now the honour to move for leave to introduce is an important one and much needed in order to strengthen the administration in Lower Burma in dealing with violent crime and in maintaining law and order. Its primary object is to establish a system of village-organisation in Lower Burma, or rather to re-establish it. For in Lower Burma, as in Upper Burma, we found on annexation the entire government of the country resting upon a village-organisation, each village having its responsible headman, who exercised police and magisterial powers and acted as arbitrator and judge in civil disputes. The timely introduction of the Upper Burma Village Regulation has checked the disintegration of the system, which had already begun in that part of the country with the introduction of our rule. And it is now proposed in Lower Burma to do something towards the restoration of an organisation to the want of which the Chief Commissioner directly attributes much of the disorder which has of late prevailed and which to some extent still continues.

"So much has this want been felt in Burma even in ordinary times that steps were taken in 1880, by the enactment of the District Cesses and Rural Police Act, to improve the status of the village-headman and to define his duties. The Act imposed a cess of 5 per cent. on the land-revenue for the maintenance of village-police, provided for the appointment of headmen of villages and headmen of circuits, invested them with the powers of police-officers; empowered them to call on the inhabitants of their jurisdiction to assist in the suppression of crime and rendered it compulsory to comply with such requisitions. It also made liable to punishment with fine the inhabitants of places where dacoity and robbery are committed and where dacoits and robbers are harboured with their connivance. The Act, however, was faulty in making the headman the servant of too many masters, and was defective in not giving him sufficient powers to enforce his orders. It has not therefore been able to stand the strain of the crisis through which the province has passed, and it has now become necessary to re-adjust the whole system. In doing so it is proposed to follow the plan which has been adopted with marked success in Upper Burma.

"The principal sections of the Bill divide themselves naturally into two parts, sections 3 to 10 relating to the appointment of village-headmen and the definition of their powers and duties, and sections 11 to 23, which enforce village-responsibility and are designed to repress crime. The latter will come into force as soon as enacted, the former only in places to which they may be extended from time to time by the Local Government. The reason for this is that the selection and appointment of headmen will require much labour and care, and

District-officers will not be able to put the provisions of the Act relating to the headmen into force in the whole of their districts at once. This portion of the Act therefore will be applied gradually.

"The Chief Commissioner strongly recommends, in order to enhance the status of the headman and give him a substantial and permanent interest in his office, that he should receive a small area of land free of revenue to be held so long as he shall remain in office and discharge his duties efficiently. This is a measure which was very strongly advocated in 1879, when the Chief Commissioner of British Burma submitted the Rural Police and District Cess Bill. The provisions in this behalf, however, were struck out of the Bill, as it was considered that the object in view could be attained by administrative arrangement. This was true enough so far as the grant of the land or the exemption from revenue is concerned. But it was difficult without legislation to treat the holding as an appanage of the office and prevent the acquisition of private rights therein. The result is that the measure has been a dead letter, and this is probably one of the reasons among others why the headman in Lower Burma has not had the influence that was expected. The present Bill leaves the question of the grant of land or remission of revenue to be dealt with, as before, as an administrative matter, but provides for treating the holding and emoluments as an appanage of the office when the remuneration of the headman takes that form, and for their tenure and devolution accordingly.

"As the other provisions of the Bill are taken bodily from the Upper Burma Village Regulation of 1887 and from Act II of 1880, it is hardly necessary at the present stage that I should either enumerate them or justify them to this Council as legislative measures. As regards the duties of the headman, these the Chief Commissioner says 'will be similar to those which he now performs. But he will have power to enforce his authority; and owing to his civil and criminal powers he will occupy a position of far greater influence than that which he now holds. The Chief Commissioner considers it essential that the headman should have powers to enforce his orders. The powers given to the headman for this purpose are similar to those enjoyed by patels under the Bombay system. This is the vital principle of the whole scheme, and Sir Charles Crosthwaite earnestly hopes that it may be accepted without material modifications.' With respect to the provisions of the Bill which enforce village-responsibility and strengthen the hands of the District officers and Commissioners, the Chief Commissioner says:—

"The recent disturbances in Lower Burma have clearly shown that there is need of measures for strengthening the hands of Deputy Commissioners. The power of promptly punishing villages which afford help and shelter to dacoits or which fail to resist attack, of requiring villages to be made defensible, of moving remote and isolated houses and hamlets which furnish dacoits with supplies, of enforcing village-responsibility for crime, and of maintaining supervision over persons who move from village to village, is much needed. In some places, such as in the Thayetmyo and Tharrawaddy districts, where violent crime is rife, and where the district authorities have been powerless against it, the need is urgent. It is only by the adoption of measures similar to those provided for in the present Bill that any headway has been made in those parts of the country which, since the end of 1885, have been overrun by dacoit gangs. The reports connected with the operations in the Pyuntaza subdivision of the Shwegyin district have been before the Government of India. Similar operations were commenced in the early part of the present year in the Minhla subdivision of Thayetmyo, which was the chief scene of B. Swè's crimes, and in the Myedè and Sinbaungwè subdivisions of the same district. The results have been attended in the Minhla subdivision with considerable and in the Myedè subdivision with complete success. The Chief Commissioner asks that District-officers in Lower Burma may be placed in the same position as those in Upper Burma in respect of the management of their districts."

"Lastly, as regards the general necessity for this measure, I quote the following weighty words of the Chief Commissioner:—

"The law as it stands at present does not enable the Magistrate to make the people interest themselves in suppressing crime. It is as certain as anything can be that, if the people chose to assist us even by timely information, there is not a dacoit gang which could survive for a fortnight. They do not assist the Government in any way. On the contrary, many of them feed and shelter the outlaws, provide them with ammunition, warn them of the movements of the police, and when occasion arises furnish them with recruits from the villages. This condition of affairs has long been chronic in Upper Burma and in some parts of Lower Burma. It is the natural outcome of the character of the country, of the people, and of the government that they have submitted to for some centuries. Under such circumstances, and in a country intersected by streams and creeks and full of heavy forest and thick jungle, the ordinary police-force becomes helpless and fresh posts

and increased garrisons become necessary. This state of things will go on in Lower Burma as it has for the last six or seven years at least, increased expenditure being incurred without any improvement of a permanent kind either in the efficiency of the police or in the conduct of the people, unless some change in the law is made which will compel the people to act together and to assist the officers of Government. It is believed that a measure of the kind now proposed will secure the attainment of this result."

"Sir Charles Crosthwaite has been Chief Commissioner of Burma for something over twenty months. During that time he has accomplished great things under difficulties the magnitude of which can only be fully appreciated by those who, like myself, have had the opportunity of watching his administration from day to day. His government has been characterized by an intelligence, moderation, firmness and vigour from which I cannot withhold in this place my tribute of warm admiration. I believe that, if this Bill is, with the permission of Council, introduced and passed into law, it will in Sir Charles Crosthwaite's hands in time contribute materially to the thorough re-establishment of law and order in every district of Lower Burma, and towards the laying of a firm foundation for the future peace and prosperity of that most important province."

The Motion was put and agreed to.

The Hon'ble SIR CHARLES AITCHISON also introduced the Bill.

The Hon'ble SIR CHARLES AITCHISON also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Burma Gazette in English and in the Vernacular.

The Motion was put and agreed to.

SOLDIERS' NECESSARIES PURCHASE ENACTMENTS REPEAL BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved that the Bill to repeal certain enactments relating to the purchase of regimental necessities from soldiers be taken into consideration. He said:—

"I explained, in introducing this Bill into the Council, that its object was to bring the law of India into harmony with the provisions of the Army Act, in respect to the penalties involved in the illicit purchase of regimental necessities from soldiers. The Bill is of a very simple character and has not called for any criticism and is not likely to call for any such, except perhaps from the criminal classes who are engaged in these illegal purchases."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill be passed.

The Motion was put and agreed to.

INDIAN MARINE ACT, 1887, AMENDMENT BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill to amend the Indian Marine Act, 1887, be taken into consideration. He said:—

"In moving for leave to introduce this Bill I explained to the Council that its object was simply to amend a technical provision in the wording of certain nomenclature recited in the Bill. It is a matter therefore of a purely technical character and does not call for any further explanation."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill be passed.

The Motion was put and agreed to.

DEATH OF COLONEL A. C. W. CROOKSHANK, C.B.

At the close of the proceedings His Excellency THE PRESIDENT spoke as follows regarding the death of Colonel A. C. W. Crookshank, Commanding the Fourth Column of the Hazara Field Force:—

" I am sure it will be a matter of regret to all of the members of the Legislative Council to have heard the sad intelligence of the death of a very distinguished officer, in consequence of a wound which he recently received during the operations of Her Majesty's troops in the Black Mountain. We were all personally acquainted with Colonel Crookshank, as for a considerable period he served the Government of India in the important capacity of Deputy Secretary in the Military Department. Not only so, but he also has had a distinguished career as a soldier, and he has now lost his life in the discharge of his duties as the Colonel Commanding one of the four columns that were despatched against the rebellious tribes in the Black Mountain, and in command of the Pioneer Regiment. It is unnecessary for me to add with what deep regret the Government of India has learnt the loss of so gallant an officer and so distinguished a servant of the Crown."

The Council adjourned *sine die*.

SIMLA;

The 20th October, 1888.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 29, 1888.

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

PART VI.

Debates of the Legislative Council of His Excellency the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

REPORT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 21st December, 1888.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G.,
G.M.S.I., G.M.I.E.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.
The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.
The Hon'ble A. R. Scoble, Q.C.
The Hon'ble Sir C. A. Elkott, K.C.S.I.
The Hon'ble P. P. Hutchins, C.S.I.
The Hon'ble D. M. Barbour, C.S.I.
The Hon'ble R. Steel.
The Hon'ble F. M. Halliday.
The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Maharaja of
Vizianagram.
The Hon'ble Syud Ameer Hossein, C.I.E.
The Hon'ble Raja Durga Charn Laha, C.I.E.
The Hon'ble G. H. P. Evans.

NEW MEMBERS.

The Hon'ble SYUD AMER HOSSEIN, the Hon'ble RAJA DURGA CHARN LAHA and the Hon'ble MR. EVANS took their seats as Additional Members.

METAL TOKENS BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Mr. Barbour be substituted for Mr. Westland as a member of the Select Committee on the Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States, and that the Hon'ble Messrs. Steel and Halliday and the Mahārāja of Vizianagram be added to the Committee.

The Motion was put and agreed to.

MEASURES OF LENGTH BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Messrs. Barbour and Steel, the Hon'ble Sir Dinshaw Manockjee Petit and the Hon'ble Rājā Durga Charn Laha be added to the Select Committee on the Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

The Motion was put and agreed to.

SALT-DUTY BILL.

The Hon'ble MR. SCOBLE also moved that the Hon'ble Mr. Barbour be substituted for Mr. Westland as a Member of the Select Committee on the Bill to regulate the payment of duty in respect of Salt where there has been an alteration of the rate of duty payable in respect thereof, and that the Hon'ble Mr. Steel and the Hon'ble Sir Dinshaw Manockjee Petit be added to the Committee.

The Motion was put and agreed to.

PROBATE AND ADMINISTRATION BILL.

The Hon'ble MR. SCOBLE also moved that the Bill to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters be referred to a Select Committee consisting of the Hon'ble Messrs. Hutchins, Barbour and Evans, the Hon'ble Syud Ameer Hossein, the Hon'ble Rājā Durga Charn Laha and the Mover.

The Motion was put and agreed to.

SUCCESSION CERTIFICATE BILL.

The Hon'ble MR. BARBOUR moved that the Bill to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble, Hutchins and Evans, the Hon'ble Syud Ameer Hossein, the Hon'ble Rājā Durga Charn Laha and the Mover.

The Motion was put and agreed to.

CANTONMENTS BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved that the Bill to consolidate and amend the law relating to Cantonments be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble, Hutchins and Quinton, the Mahārāja of Vizianagram, the Hon'ble Syud Ameer Hossein and the Mover.

The Motion was put and agreed to.

"MERCHANDISE MARKS BILL.

The Hon'ble MR. SCOBLE moved that the Bill to amend the law relating to Fraudulent Marks on Merchandise be referred to a Select Committee con-

sisting of the Hon'ble Messrs. Hutchins, Barbour and Steel, the Hon'ble Sir Dinshaw Manockjee Petit, the Hon'ble Rājā Durga Charn Laha and the Mover.

The Motion was put and agreed to.

RAILWAYS BILL.

The Hon'ble MR. SCOBLE also moved that the Bill to consolidate, amend and add to the law relating to Railways in India be referred to a Select Committee consisting of the Hon'ble Sir Charles Elliott, the Hon'ble Messrs. Hutchins and Steel, the Hon'ble Sir Dinshaw Manockjee Petit and the Mover.

The Hon'ble RAJA DURGA CHARN LAHA said :—" Before the Railway Bill is referred to the Select Committee I wish to say a few words on the subject. I see there is no provision made in it for the retiring accommodation of third class passengers. This is an urgent necessity, and which, I am sure, cannot be entirely ignored by the railway authorities, and I may state that the public feeling outside is very strong on the point.

" The British Indian Association made a representation on the subject to the Railway Conference which lately sat at Simla, and this representation will no doubt be placed before the Committee and carefully considered. It suggests several important improvements. The greatest inconvenience experienced by third class passengers arises from an absence of some sort of retiring accommodation in the trains, and it is particularly so in the case of female passengers. In my opinion, some provision should be made in order to remove the inconvenience so keenly felt."

The Hon'ble MR. SCOBLE said :—" I may say that I invited my hon'ble friend Rājā Durga Charn Laha to become a member of the Select Committee on this Bill in order that he might represent his views on the point, but unfortunately his engagements will not permit him to serve on the Committee, but I am sure the Committee would be glad to give him an opportunity of expressing his views on this or any other points of the Bill during its discussion in Committee."

The Hon'ble RAJA DURGA CHARN LAHA said :—" I do not think I shall be able to attend during the whole course of the sittings of the Committee, but I shall be glad to attend on occasions when this or any other particular point is to be considered."

The Hon'ble MR. SCOBLE said :—" I have no doubt the Committee will be glad to give the hon'ble member an opportunity of attending their meetings whenever he desires to do so."

THE PRESIDENT said he presumed this would meet the views of the hon'ble member.

The Motion was put and agreed to.

BURMA FINANCIAL COMMISSIONER'S BILL.

The Hon'ble MR. SCOBLE also moved that the Bill to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions be taken into consideration. He said :—

" The object of this Bill is to provide much-needed relief for that very hard-worked official, the Chief Commissioner of Burma. The administration of that great province involves a vast amount of labour, of a portion of which it is not only expedient but necessary that he should be able to divest himself. As some of his duties, especially in relation to revenue matters, are imposed upon him by legislative enactment, an Act of this Council is required to enable him to transfer those duties to another officer. The Bill accordingly provides that the

Financial Commissioner shall be the Chief Revenue-authority in Burma, and shall exercise such functions as the Local Government, with the previous sanction of the Governor General in Council, may delegate to him. And, as a Financial Commissioner was appointed some months ago, the Bill further validates his proceedings since the date of his appointment.

"One alteration only has been made in the Bill since it was introduced by my hon'ble friend Sir Charles Aitchison on the 25th of October. It is now proposed that the Act, if passed, shall come into force at once, instead of at such time as the Local Government, with the previous sanction of the Governor General in Council, might appoint. As the Financial Commissioner is already at work, I think the Council will agree with me that this amendment may properly be accepted."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed. The Motion was put and agreed to.

BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble MR. SCOBLE also moved that the Bill to amend the Burma Municipal Act, 1884, be taken into consideration. He said:—

"This Bill was introduced by my hon'ble friend Sir Charles Aitchison on the 25th of October. It has the approval of the Chief Commissioner of Burma, and it has been published, in conformity with the orders of this Council, in the Burma Gazette.

"Its object is simple. Under the Burma Municipal Act of 1874 two classes of taxes are allowed to be levied. The first class, under section 41, are property taxes for general purposes, payable by the person in possession, that is, the owner for the time being. The second class—water, lighting and scavenging rates imposed under sections 42, 43 and 44—are service taxes and payable by the occupier. In theory this apportionment is perfectly correct. The former are ordinary taxes on property, and as such are rightly payable by the owner; but the taxes levied to meet the cost of the water-supply, of the lighting of the streets, and of the conservancy of the town, are payments made in respect of special services from which the occupiers of houses, as distinguished from the owners, derive immediate benefit. This theoretical distinction, however, has produced practical inconvenience. It is represented that most of the houses in the business part of Rangoon are let in portions, that the tenants are constantly changing, and that in many cases the tenancies are from day to day. The occupiers of these tenements are of the poorest classes. As the Chief Commissioner points out, 'the difficulty of justly apportioning the amount of tax payable under these circumstances would be great, and, even if it were possible to apportion the incidence of the taxes in question, the difficulty of realising the taxes demanded by any process of attachment is practically insurmountable.' 'Moreover,' he adds, 'it is stated that, these taxes having for a long time been paid by owners, rents had been adjusted so as to enable the owner to recover from the tenant the amount of the tax.' This, I think, is more than probable.

"A recent decision of the Recorder of Rangoon has placed owners of houses in the position of being able to decline to pay these taxes, without, so far as has been ascertained, making a corresponding reduction in the rent claimed from their tenants. It is calculated that in consequence the municipality will be unable to collect Rs. 50,000 out of a total demand of about Rs. 2,50,000 on account of the taxes in question, and the municipal committee of Rangoon,—a thoroughly representative body,—at a meeting at which there were present one official member and fourteen non-official members, of whom there were six Europeans, four Burmans, two Muhammadans, one Hindu and one Chinese, unanimously recommended that the alteration in the law which is now proposed should be made.

"I think the case is fully made out as regards Rangoon, and, as the state of things which prevails there is not unlikely to be found to exist in other municipalities in Burma, it seems desirable that the alteration of the law should be of general and not particular application.

"The effect of the Bill will be to make owners and occupiers jointly and severally liable for these taxes; in this way the municipality will certainly get its dues, while at the same time provision is made that an occupier who has paid an owner's rate under section 41 may deduct it from the rent, and an owner who has paid service rates under sections 42, 43 and 44 may recover them from his tenants, in the absence of an agreement to the contrary.

"There is also a provision by which Government is in some respects exempted from the liability of an owner under the Municipal Act. This is suggested by special circumstances, into which it is unnecessary to enter, and is intended to avoid the raising, upon the side issue of liability to taxation, of difficult and inconvenient questions of title between Government and the owners of house-property in Rangoon."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill be passed. The Motion was put and agreed to.

BURMA RURAL POLICE BILL.

The Hon'ble MR. HUTCHINS moved that the Bill to provide for the establishment of a village-system and amend the law relating to Rural Police in Lower Burma be referred to a Select Committee consisting of the Hon'ble Messrs. Scoble and Quinton and the Mover. He said:—

"This Bill was introduced by Sir Charles Aitchison on the 25th October last, and I have succeeded to its charge. The Chief Commissioner has proposed some trifling amendments in the Bill, and I think it desirable that they should be considered by a small Select Committee."

The Motion was put and agreed to.

MADRAS CORONER'S BILL.

The Hon'ble MR. HUTCHINS also moved for leave to introduce a Bill to abolish the office of Coroner of Madras. He said:—"The Bill which I have now to bring before the Council is, as its title indicates, a Bill to abolish the office of Coroner of Madras. It has only a local interest, and Your Excellency and the Council will probably be satisfied if I am able to show that the authorities, having special knowledge of the circumstances of the city of Madras, are unanimously in favour of the measure.

"But, before I proceed to quote their recorded opinions, I wish to anticipate a possible objection,—the only objection which, I think, is possible,—and that is, why should we treat Madras differently from the other presidency-towns? If we pass this Bill, will it not be a first step towards the abolition of the Coroners of Calcutta and Bombay also? The simple answer to these questions is that Madras is already in this very matter treated differently from her sister cities. The Coroner of Madras only acts in a portion of the town of Madras: in the rest his duties are performed by the police. The law establishing Coroners in the three presidency-towns is an Act of 1871. Before ten years had elapsed, it was found impossible for the Coroner of Madras to exercise his functions throughout the numerous hamlets included within the city boundaries, which enclose an area of no less than twenty-seven square miles. Accordingly, another Act (X of 1881) had to be passed to enable the Local Government to regulate the local limits within which the Coroner should act. Section 3 of that Act provided that 'the Governor of Fort St. George may, from time to time, with the previous sanction of the Governor General in Council, by notification in the Fort St. George

Gazette, alter the local limits of the jurisdiction of the Coroner of Madras. Under these powers the Local Government has greatly curtailed the Coroner's limits, and in the excluded areas inquests are already held by or under the authority of the Commissioner of Police. It would be competent for the Local Government to carry this process further and even to reduce the Coroner's jurisdiction to something merely nominal. This Bill therefore proposes to do little more than can already be accomplished by an executive order. As the Local Government, which is empowered to make such order, wish to abolish the office of Coroner, I think we may readily agree to give effect to their recommendation. We shall thereby get rid of a very inconvenient dual jurisdiction which now exists only in Madras, and we shall bring the whole of Madras, as far as inquests are concerned, under the very same conditions which prevail in the greater part of it, as well as in Allahabad, Karáchi, Lahore, Rangoon and other large towns of the Indian Empire.

"The measure does not at all involve an attack upon the office of Coroner as an institution, and I do not propose to say a word against its undoubted usefulness in the days of our forefathers, or even against its appropriateness to the present time. Some disparaging expressions may perhaps be found in some of the papers I have before me, but I shall only quote enough to show that the Local Government, the High Court, the Presidency Magistrates and the Commissioner of Police all agree that the office need not be continued, and to satisfy you that the proposal to abolish the Coronership is not a mere outcome of zeal for financial economy, although it originally emanated from the Finance Committee.

"In a letter dated 21st June, 1888, addressed to the High Court, the Local Government said:—

'In the class of cases which form the most important subjects of a Coroner's enquiry, that officer is to a great extent dependent on the aid rendered by the police. When crime, or even a suspicion of crime, is present, it is on the police and the magistracy that the public really rely. If it be undesirable to entrust the police with the preliminary enquiry of which an inquest consists, namely, whether a death has been due to natural causes, it should be much less expedient to impose on them the graver and more difficult investigation which often follows an inquest and on which invariably depends the detection of crime in suspicious cases. There is also much force in the Commissioner's observation that the necessity for withholding the power to hold an inquest from the police would be much greater in obscure rural parts of the country than in the presidency-town, where it is highly improbable that cases would be successfully suppressed in the face of public opinion and diffused sources of information.'

"To this I may add that the city police are far more strictly supervised and kept better in hand than is possible in the mufassal. The Government went on to say—

'The present system of territorial division between the police and the magistracy is justly characterised by the Commissioner as illogical and unsatisfactory, but it has served to show that the work done under it by the police during the last six years has been in no way inferior to that performed by the Coroner.'

"In replying to this letter the High Court did not take objection to the abolition of the office, but they were at first desirous that the work of the Coroner should devolve on the Presidency Magistrates. It was found, however, that it would not be possible to transfer the Coroner's duties to the Magistrates without causing great public inconvenience and interruption of the business of the Courts. An unburied corpse, it was observed, demands instant attention, and a Magistrate might have to leave his Court and drive some miles to hold an inquest. But in order to meet the views of the High Court the Government undertook to make certain precautionary rules. I do not think I need trouble the Council with these rules in detail. Suffice it to say that the power to make such rules as may be required is reserved to the Government by section 4 of the Bill, and that, in view of the safeguards proposed by the Government, the High Court, on the 7th August, 1888, withdrew their objections and finally consented to the abolition of the office. The remarks of the Local Government which I have just read are adopted substantially from a report made by the Commissioner of Police, Colonel Weldon, who was

himself for many years Chief Presidency Magistrate, and his views on the matter are shared by the present Chief Magistrate. It will be thus seen that all the local authorities are agreed that the office of Coroner in Madras may now be abolished."

The Motion was put and agreed to.

The Hon'ble MR. HUTCHINS also introduced the Bill.

The Hon'ble MR. HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 4th January, 1889.

S. HARVEY JAMES,

Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM;
The 27th December, 1888. }

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