

GOVT.
OF MADRAS. }

1888.

{ P.W.
DEPT.

EXAMINER, P. W. ACCOUNTS.

Madras, 16 April 1888.

OFFICE NOTE No. 1352

Enc: 1

To

W.

G. O. No. 724 W. dated 2nd. March 1888.

With reference to the concluding clause of para 3 of G. O. No. 724 W. dated 2nd. March 1888, I beg to forward herewith for the approval of Government, a draft standing order modifying Code para 1859, making it clear under what circumstances, road metal statements should be maintained by the Executive Engineers, and half yearly balance returns of the same submitted to the Examiner.

*Long*C.
at 1/4
28
16/4

KEEP-WITH

Genl. No.

dated

188 .

1,000—7-2-88.

PNC No 3561

(16)

No 2000 Wd/4 July 1888

By the draft

So is approved

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E.I

No 2000 Wd/4 July 1888

Amendment of
the Revenue Code
with S.O. 2244
21.4.88

For J. W. A. ✓

with Enclosure.

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Ant. H. C. D. W. W.

GOVT.
MADRAS.

1888

P.W.
DEPT

FORT ST. GEORGE GAZETTE
SUPPLEMENT.

TUESDAY EVENING,
MAY 15, 1888.



ACT OF THE GOVERNMENT OF INDIA.

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:—

"4A. (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

[PRICE, 2 ANNAS AND 9 PIES.]

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.”

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 :—

“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.”

Addition of new section after section 16.

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 immoveable 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.”

Addition to section 17.

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.”

Amendment of section 27.

9. For

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 non-joinder 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 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 :—

Delivery or transmission of summons for service.

“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.”

Amendment of section 82.

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 :—

Service in foreign territory through British Resident or Court.

“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

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.

Endorsements on documents rejected as inadmissible in evidence.

"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.

Recording of admitted and return of rejected documents.

"(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:—

Amendment of section 143.

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

15. In

Amendment of section 159.

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

Amendment of section 168.

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."

Addition of new section after section 185.

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

Power for Local Government to require evidence to be recorded in English.

"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)."

Addition to section 191.

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

Power to deal with evidence taken down by another Judge.

"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."

Addition to section 193.

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."

Amendment of section 209.

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

Amendment of section
216.

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.”

Amendment of section
223.

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.”

Amendment of section
229.

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

Addition of new section
after section 229.

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.”

Repeal of part of section
230.

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

Amendment of section
244.

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.”

Amendment of section
258.

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.”

Amendment of section
266.

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

(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, 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.

Amendment of section
289.

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

Addition to section 320.

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*).

Amendment of Chapter
XX.

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

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

Inapplicability of this Chapter to Presidency towns.

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

Amendment of Chapter XXI.

"363. If there

Procedure where one of several plaintiffs dies and right to sue does not survive to surviving plaintiffs alone.

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:—

Procedure in case of death of sole or sole surviving plaintiff.

"365. In case of the death of a sole plaintiff or sole surviving plaintiff, the 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:—

Power for Court to extend period of limitation prescribed for certain applications.

"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."

Addition to section 381.

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."

Amendment of section 386.

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

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.

Amendment of section 419.

Amendment of section 424.

36. In section 424, after the words "intending plaintiff" the words "and the relief which he claims" shall be inserted.

Amendment of section 432.

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."

Substitution of new section for section 433.

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

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."

Transposition and amendment of section 434.

Insertion of new section 434.

Style of Princes and Chiefs as parties to suits.

"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."

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:—
"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."

41. To section 464 the following shall be prefixed, namely:—

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.

45. To section 540 the following shall be added, namely:—
"An appeal may lie under this section from an original decree passed *ex parte*."

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."

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

(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."

Amendment of, and addition to, section 561.

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."

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.

Repeal of section 563.

50. Section 563 is hereby repealed.

Amendment of section 565.

51. In section 565, for the word "shall" the word "may" shall be substituted.

Amendment of section 566.

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."

Addition to section 584.

54. To section 584 the following shall be added, namely:—

"An appeal may lie under this section from an appellate decree passed *ex parte*."

Amendment of section 588.

55. (1) In section 588, clause (9), for the word "or" the word "for" shall be substituted.

2. In the same section, clause (16), for the words "the first paragraph of" the words "and orders under" shall be substituted.

56. The

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Repeal of part of section 589.

56. The first paragraph of section 589, and the word "other" in the second paragraph of that section, are hereby repealed.

Repeal of section 599 and part of section 601.

57. Section 599, and in section 601 the words "within thirty days from the date of the order," are hereby repealed.

Addition to section 610.

58. After the second paragraph of section 610 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."

Addition to section 626.

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."

Addition of new sections after section 646.

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 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."

Amendment of, and addition to, section 648.

61. (1) For the third paragraph of 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

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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."

Amendment of section 650A.

62. In section 650A, the words "or continued" shall be inserted after the word "established."

Addition to section 652.

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."

Amendment of form No. 137, Schedule IV.

64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person."

Amendment of the Indian Registration Act, 1877.

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.

(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.

Amendment of the Indian Limitation Act, 1877.

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

GOVT. OF MADRAS. }

1888.

{ P.W. DEPT.

EXAMINER, P. W. ACCOUNTS.

Madras, 25 June 1888.

OFFICE NOTE No. 1750

Encl. 1

To

W.

I beg to forward herewith for the approval of Government a draft standing order modifying note 2 of para 475 A. of the P. W. D. Code, extending the exemption of salaries from attachment by courts, based on section 28(3) of the Civil Procedure Code, Amendment Act No. VII of 1888, published as a supplement to the Fort Saint George Gazette dated 15th May 1888.

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dated

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(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.	Do. . .	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.	Do. . .	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.

(Republished by order of the Right Honorable the Governor in Council.)

H. E. STOKES,
Chief Secretary.

with 1 enclosure

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P.W.C.

(6)

Recd. 26:6: 87.

No. 1999 w d / 4 July
1888

Approved
Approved

WCM
27.6.88

For
28/6/88

Examr. Recd
Exr. Recd
with Draft S.D.
with 10/10/88

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