

MINISTRY OF LAW COPY

A

COLLECTION

OF

THE ACTS

OF

THE INDIAN LEGISLATURE AND OF  
THE GOVERNOR GENERAL

FOR THE YEAR

1925

---

CALCUTTA: GOVERNMENT OF INDIA  
CENTRAL PUBLICATION BRANCH  
1926

*Price As. 2 or 3d.*

**Government of India Publications are obtainable from  
the Government of India Central Publication Branch,  
8, Hastings Street, Calcutta, and from the following Agents :—**

**EUROPE.**

OFFICE OF THE HIGH COMMISSIONER FOR INDIA,  
42, GROSVENOR GARDENS, LONDON, S.W. 1.

And at all Book-sellers.

**INDIA AND CEYLON.**

**Provincial Book Depôts :**

**MADRAS** :—Office of the Superintendent, Government Press, Mount Road, Madras.  
**BOMBAY** :—Office of the Superintendent of Government Printing and Stationery, Poona.  
**SIND** :—Library attached to the Office of the Commissioner in Sind, Karachi.  
**BENGAL** :—Office of the Bengal Secretariat Book Depôt, Writers' Buildings, Room No. 1, Ground Floor, Calcutta.  
**UNITED PROVINCES OF AGRA AND OUDH** :—Office of the Superintendent of Government Press, United Provinces of Agra and Oudh, Allahabad.  
**PUNJAB** :—Office of the Superintendent, Government Printing, Punjab, Lahore.  
**BURMA** :—Office of the Superintendent, Government Printing, Burma, Rangoon.  
**CENTRAL PROVINCES AND BERAR** :—Office of the Central Provinces Secretariat, Nagpur.  
**ASSAM** :—Office of the Superintendent, Assam Secretariat Press.  
**BIHAR AND ORISSA** :—Office of the Superintendent, Government Printing, Bihar and Orissa, P. O. Guizarbagh, Patna.  
**COORG** :—Office of the Chief Commissioner of Coorg, Bangalore.  
**NORTH-WEST FRONTIER PROVINCE** :—Office of the Manager, Government Printing and Stationery, Peshawar.

Thacker, Spink & Co., Calcutta and Simla.  
 W. Newman & Co., Ltd., Calcutta.  
 R. Cambay & Co., Calcutta.  
 S. K. Lahiri & Co., Calcutta.  
 The Indian School Supply Depôt, 309, Bow Bazar Street, Calcutta, and 220, Nawabpur, Dacca.  
 Butterworth & Co. (India), Ltd., Calcutta.  
 Rai M. C. Sarcar Bahadur and Sons, 90/2-A, Harrison Road, Calcutta.  
 The Weldon Library, 17, Park Street, Calcutta.  
 Standard Literature Co., Ltd., Calcutta.  
 Association Press, Calcutta.  
 Chukerverty, Chatterjee & Co., Ltd., 13, College Square, Calcutta.  
 The Book Company, Calcutta.  
 James Murray & Co., 12, Government Place, Calcutta. (For Meteorological Publications only.)  
 Higginbotham & Co., Madras.  
 V. Kalyanarama Iyer & Co., Madras.  
 P. R. Rama Iyer & Co., Madras.  
 Rochouse & Sons, Madras.  
 G. A. Nateson & Co., Publishers, George Town, Madras.  
 The Modern Stores, Salem, Madras.  
 Bright & Co., Trivandrum.  
 The Booklover's Resort, Taikad, Trivandrum, South India.  
 V. S. Swaminathan, Bookseller, West Tower Street, Madura.  
 Thacker & Co., Ltd., Bombay.  
 D. B. Taraporevala, Sons & Co., Bombay.  
 Sunder Pandurang, Bombay.  
 Ramchandra Govind & Sons, Kalbadevi, Bombay.  
 N. M. Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay.  
 R. B. Umadikar & Co., The Bharat Book Depôt, Dharwar.  
 Proprietor, New Kitabkhana, Poona.  
 The Manager, Oriental Book Supplying Agency, 15, Shukrawar, Poona City.  
 R. S. Gondhalekar's Book Depôt, Publisher and Bookseller, Budhwar Chawk, Poona City.  
 Managing Director, Co-operative Bookstall, Booksellers and Publishers, Poona City.  
 The Standard Bookstall, Karachi and Rawalpindi.  
 J. Ray & Sons, 43 K. & L., Edwardes Road, Rawalpindi.

The Standard Book Depôt, Lahore, Lucknow, Nainital, Mussoorie, Dalhousie and Amballa Cantonment.  
 Karandas Narandas & Sons, Surat.  
 Mangaldas & Sons, Booksellers and Publishers, Bhaga Talao, Surat.  
 Mrs. Radhabai Atmaram Sagoon, Kalbadevi Road, Bombay.  
 A. H. Wheeler & Co., Allahabad, Calcutta and Bombay.  
 N. B. Mathur, Supdt., Nazir Kanun Hind Press, Allahabad.  
 The North India Christian Tract and Book Society, 13, Clive Road, Allahabad.  
 Ramdayal Agarwalla, 184, Katra, Allahabad.  
 Manager, Newal Kishore Press, Lucknow.  
 The Upper India Publishing House, Ltd., 41, Aminabad Park, Lucknow.  
 Munshi Seeta Ram, Managing Proprietor, Indian Army Book Depôt, Jubb, Cawnpore.  
 Rai Sahib M. Gulab Singh & Sons, Mufti-Am Press, Lahore and Allahabad.  
 Rama Krishna & Sons, Booksellers, Anarkali, Lahore.  
 Puri Brothers, Booksellers and Publishers, Katcher Road, Lahore.  
 The Tilak School Bookshop, Lahore.  
 Manager of the Imperial Book Depôt, 63, Chandney Chank Street, Delhi.  
 Oxford Book and Stationery Co., Delhi.  
 Supdt., American Baptist Mission Press, Rangoon.  
 Proprietor, Rangoon Times Press, Rangoon.  
 The Modern Publishing House, Ltd., 30, Phayre Street, Rangoon.  
 The International Buddhist Book Depôt, Post Box No. 571, Rangoon.  
 Burma Book Club, Ltd., Rangoon.  
 Manager, The "Hitavada," Nagpur.  
 S. C. Talukdar, Proprietor, Students and Co., Conch Behar.  
 Times of Ceylon Co., Ltd.  
 The Manager, Ceylon Observer, Colombo.  
 The Manager, The Indian Book Shop, Benares City.  
 B. C. Basak, Esq., Proprietor, Albert Library, Dacca.  
 The Srivilliputtur Co-operative Trading Union, Ltd. Srivilliputtur (Satur, S. I. R.).  
 Banwari Lal, Esq., Pakariya Street, Pilibhit, United Provinces.  
 Manager, Educational Book Depôt, Jubbulpore.

**TITLES OF ACTS**  
OF  
**THE INDIAN LEGISLATURE AND OF THE GOVERNOR  
GENERAL**  
FOR THE YEAR 1925

---

- I. An Act to amend the Indian Merchant Shipping Act, 1923, for a certain purpose.
- II. „ further to amend the Indian Paper Currency Act, 1923.
- III. „ to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law.
- IV. „ to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions.
- V. „ further to amend the Indian Income-tax Act, 1922.
- VI. „ to determine the salary of the President of the Legislative Assembly.
- VII. „ to amend the Cantonments Act, 1924.
- VIII. „ to give effect to certain Articles of the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications.
- IX. „ further to amend the Indian Ports Act, 1908.
- X. „ to amend the Cantonments (House-Accommodation) Act, 1923.
- XI. „ further to amend the Indian Merchant Shipping Act, 1923, for certain purposes.
- XII. „ to provide for the better regulation of cotton ginning and cotton pressing factories.
- XIII. „ to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to remit or vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to reduce the import and excise duties on motor spirit, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax.
- XIV. „ further to amend the Indian Tariff Act, 1894.

- XV. An Act further to amend the Indian Stamp Act, 1899.
- XVI. „ further to amend the Indian Income-tax Act, 1922.
- XVII. „ to amend the Prisons Act, 1894.
- XVIII. „ further to amend the Indian Cotton Cess Act, 1923.
- XIX. „ to amend and consolidate the law relating to Government and other Provident Funds.
- XX. „ further to amend the Code of Civil Procedure, 1908.
- XXI. „ further to amend the Religious Endowments Act, 1863.
- XXII. „ to amend the law relating to salt and salt-revenue.
- XXIII. „ to confer certain exemptions on members of legislative bodies constituted under the Government of India Act.
- XXIV. „ to supplement certain provisions of the Sikh Gurdwaras Act, 1925.
- XXV. „ to provide for the fostering and development of the bamboo paper industry in British India.
- XXVI. „ to amend the law with respect to the carriage of goods by sea.
- XXVII. „ further to amend the Opium Act, 1857.
- XXVIII. „ to amend the Provident Funds Act, 1925.
- XXIX. „ further to amend the Indian Penal Code.
- XXX. „ further to amend the Indian Limitation Act, 1908.
- XXXI. „ to provide for the grading of coal and for the grant of certificates for coal intended for export.
- XXXII. „ to supplement the Oudh Courts Act, 1925.
- XXXIII. „ to amend the Criminal Tribes Act, 1924.
- XXXIV. „ to amend the Cotton Transport Act, 1923.
- XXXV. „ to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924.
- XXXVI. „ further to amend the Indian Ports Act, 1908.
- XXXVII. „ to amend certain enactments and to repeal certain other enactments.
- XXXVIII. „ further to amend the Transfer of Property Act, 1882.
- XXXIX. „ to consolidate the law applicable to intestate and testamentary succession in British India.

\*An Act to supplement the Bengal Criminal Law Amendment Act, 1925.

\* No number was given to this Act which was made by the Governor General under section 67B of the Government of India Act.



# INDEX

TO THE

## ACTS OF THE INDIAN LEGISLATURE AND OF THE GOVERNOR GENERAL FOR THE YEAR 1925.

	ACT.	SECTION.
ACT XIX OF 1841 [SUCCESSION (PROPERTY PROTECTION)]— so much as was not already repealed, repealed . . . . .	XXXIX	392 & Sch. IX.
ACT XIII OF 1857 (OPIUM)—	XXVII	2 & Sch.
section 3 substituted . . . . .	"	"
section 4 amended . . . . .	"	"
section 5 amended . . . . .	"	"
section 6 substituted . . . . .	"	"
section 7 amended . . . . .	"	"
section 8 amended . . . . .	"	"
section 9 amended . . . . .	"	"
section 10 amended . . . . .	"	"
section 11 amended . . . . .	"	"
section 12 amended . . . . .	"	"
section 13 amended . . . . .	"	"
section 14 amended . . . . .	"	"
section 15 amended . . . . .	"	"
section 16 amended . . . . .	"	"
section 18 amended . . . . .	"	"
section 21 amended . . . . .	"	"
section 22 amended . . . . .	"	"
section 23 amended . . . . .	"	"
section 26 amended . . . . .	"	"
section 30 amended . . . . .	"	"
section 31 amended . . . . .	"	"
section 32 added . . . . .	"	"
ACT XIII OF 1859 (WORKMAN'S BREACH OF CONTRACT)— repealed . . . . .	III	2 & Sch.
ACT XLV OF 1860 (PENAL CODE)—		
section 292 substituted . . . . .	VIII	2
section 293 substituted . . . . .	"	2
section 375 amended . . . . .	XXIX	2
section 376 amended . . . . .	"	3
section 490 repealed . . . . .	III	2 & Sch.
section 492 repealed . . . . .	"	"
ACT XX OF 1863 (RELIGIOUS ENDOWMENTS)—		
section 2 amended . . . . .	XXI	2
section 10 amended . . . . .	"	3

	ACT.	SECTION.
ACT X OF 1865 (SUCCESSION)— so much as was not already repealed, repealed . . .	XXXIX	392 & Sch. IX.
ACT XXI OF 1865 (PARSI INTTESTATE SUCCESSION)— repealed . . . . .	XXXIX	392 & Sch. IX.
ACT XXVII OF 1866 (TRUSTEES)— section 2 amended . . . . .	XXXII	2 & Sch.
ACT XXVIII OF 1866 (TRUSTEES' AND MORTGAGEES' POWERS)— section 1 amended . . . . .	XXXII	2 & Sch.
ACT IV OF 1869 (DIVORCE)— section 3 amended . . . . .	XXXII	2 & Sch.
ACT XXI OF 1870 (HINDU WILLS)— so much as was not already repealed, repealed . . . . .	XXXIX	392 & Sch. IX.
ACT V OF 1872 [HIGH COURTS JURISDICTION (SINDE)]— section 4 repealed . . . . .	XXXVII	3 & Sch. II.
ACT III OF 1874 (MARRIED WOMAN'S PROPERTY)— section 2 repealed in part . . . . .	XXXIX	392 & Sch. IX.
ACT XVIII OF 1875 (INDIAN LAW REPORTS)— preamble amended . . . . . section 3 amended . . . . .	XXXII "	2 & Sch. "
ACT XVI OF 1879 (TRANSPORT OF SALT)— section 1A inserted . . . . . section 3 amended . . . . . section 6 amended . . . . .	XXII " "	2 & Sch. " "
ACT XVIII OF 1879 (LEGAL PRACTITIONERS)— section 41 amended . . . . .	XXXII	2 & Sch.
ACT V OF 1881 (PROBATE AND ADMINISTRATION)— so much as was not already repealed, repealed . . . . .	XXXIX	392 & Sch. IX.
ACT VI OF 1881 (DISTRICT DELEGATES)— repealed . . . . .	XXXIX	392 & Sch. IX.
ACT II OF 1882 (TRUSTS)— section 20 amended . . . . .	XXXVII	2 & Sch. I.
ACT IV OF 1882 (TRANSFER OF PROPERTY)— section 130 amended . . . . .	XXXVIII	2
ACT VI OF 1889 (PROBATE AND ADMINISTRATION)— so much as was not already repealed, repealed . . . . .	XXXIX	392 & Sch. IX.

	ACT.	SECTION.
ACT VII OF 1889 (SUCCESSION CERTIFICATE)— so much as was unrepealed, except section 13, repealed	XXXIX	392 & Sch. IX.
ACT II OF 1890 (PROBATE AND ADMINISTRATION)— so much as was not already repealed, repealed	XXXIX	392 & Sch. IX.
ACT IX 1890 (RAILWAYS)— section 26 amended	XXXII	2 & Sch.
ACT VIII OF 1894 (TARIFF)— Schedule II amended	XIII XIV XXV	3 & Sch. I. 2 & Sch. 2 & Sch.
ACT IX OF 1894 (PRISONS)— section 46 amended section 47 amended	XVII "	2 3
ACT IX OF 1897 (PROVIDENT FUNDS)— so much as was not repealed, repealed	XIX	10 & Sch.
ACT XIV OF 1897 (SHORT TITLES)— so much of the Schedule as relates to the Workman's Breach of Contract Act, 1869, repealed	III	2 & Sch.
ACT V OF 1898 (CRIMINAL PROCEDURE)— section 4 amended section 98 amended section 266 amended section 320 amended section 364 amended section 365 amended schedule II amended	XXXII VIII XXXII XXIII XXXII " VIII XXIX XXXVII XXXVII VIII	2 & Sch. 3 2 & Sch. 2 2 & Sch. " 3 5 3 & Sch. II. 3 & Sch. II. 3
ACT VI OF 1898 (POST OFFICE)— schedule I inserted	XIII	4 & Sch. II.
ACT XIII OF 1898 (BURMA LAWS)— schedule I amended schedule III amended	XXXVII "	2 & Sch. I. 3 & Sch. II.
ACT II OF 1899 (STAMPS)— section 57 amended schedule I amended	XXXII XV	2 & Sch. 2
ACT VII OF 1901 (NATIVE CHRISTIAN ADMINISTRATION OF ESTATES)— so much as was not already repealed, repealed	XXXIX	392 & Sch. IX.
ACT IV OF 1903 [PROVIDENT FUNDS (AMENDMENT)]— repealed	XIX	10 & Sch.

	ACT.	SECTION.
ACT VIII OF 1903 (PROBATE AND ADMINISTRATION)— so much as was not already repealed, repealed . . . . .	XXXIX	392 & Sch. IX.
ACT V OF 1908 (CIVIL PROCEDURE)— section 60 amended . . . . .	XX	2
section 122 amended . . . . .	XXXII	2 & Sch.
section 123 amended . . . . .	"	"
section 135A inserted . . . . .	XXIII	3
ACT IX OF 1908 (LIMITATION)— Schedule I amended . . . . .	XXX	2 & 3.
ACT XV OF 1908 (PORTS)— section 6 amended . . . . .	IX	2
section 31 amended . . . . .	XXXVI	2
ACT IX OF 1910 (ELECTRICITY)— section 3 amended . . . . .	XXXVII	2 & Sch. I.
ACT X OF 1914 (REPEALING AND AMENDING)— so much of the Second Schedule as relates to the Pro- vident Funds Act, 1897, repealed . . . . .	XIX	10 & Sch.
ACT II OF 1917 [MOTOR SPIRIT (DUTIES)]— section 3 amended . . . . .	XIII	5
section 6 omitted . . . . .	"	"
ACT IX OF 1918 [INDIAN SOLDIERS (LITIGATION)]— repealed . . . . .	IV	15
ACT XIV OF 1919 [PROVIDENT FUNDS (AMENDMENT)]— repealed . . . . .	XIX	10 & Sch.
ACT XVIII OF 1919 (REPEALING AND AMENDING)— so much of Schedule I as refers to Act X of 1865 or to Act V of 1881, repealed.	XXXIX	392 & Sch. IX.
ACT XII OF 1920 [WORKMAN'S BREACH OF CONTRACT (AMENDMENT)]— repealed . . . . .	III	2 & Sch.
ACT XXXVIII OF 1920 (DEVOLUTION)— so much of the First Schedule as relates to the Work- man's Breach of Contract Act, 1859, repealed. as relates to Act X of 1865 or to Act V of 1881, repealed as relates to the Provident Funds Act, 1897, repealed . . . . .	III  XXXIX XIX	2 & Sch.  392 & Sch. 10 & Sch.
ACT XI OF 1922 (INCOME-TAX)— section 18 amended . . . . .	XVI	2
section 56 amended . . . . .	V	2

	ACT.	SECTION.
ACT III OF 1923 (COTTON TRANSPORT)—		
section 2 amended . . . . .	XXXIV	2
section 3 amended . . . . .	"	3
section 4 amended . . . . .	"	4
section 5 amended . . . . .	"	5
section 7 amended . . . . .	"	6
ACT IV OF 1923 (MINES)—		
section 9 amended . . . . .	XXXVII	2 & Sch. I.
section 13 amended . . . . .	"	"
section 30 amended . . . . .	"	"
ACT VI OF 1923 [CANTONMENTS (HOUSE-ACCOMMODATION)]—		
section 2 amended . . . . .	X	2
section 17 amended . . . . .	"	3
section 22 amended . . . . .	"	"
section 34 amended . . . . .	"	4
section 37 amended . . . . .	"	5
The words "Commanding Officer of the Cantonment" wherever they occur in the Act were substituted by the words "Officer Commanding the Station" . . . . .	"	6
ACT VIII OF 1923 (WORKMEN'S COMPENSATION)—		
section 22 amended . . . . .	XXXVII	2 & Sch. I.
ACT X OF 1923 (PAPER CURRENCY)—		
section 19 amended . . . . .	II	2
	XIII	6
ACT XIV OF 1923 (COTTON CESS)—		
section 8 amended . . . . .	XVIII	2
ACT XXI OF 1923 (MERCHANT SHIPPING)—		
section 203 amended . . . . .	XI	2
section 204 amended . . . . .	"	3
section 205 amended . . . . .	"	4
section 208A inserted . . . . .	"	5
section 209 amended . . . . .	"	6
section 209A inserted . . . . .	"	7
section 213 amended . . . . .	"	8
section 245 amended . . . . .	I	2
ACT XXIX OF 1923 (CIVIL PROCEDURE AMENDMENT)—		
section 1 amended . . . . .	XXXVII	2 & Sch. I.
ACT II OF 1924 (CANTONMENTS)—		
section 2 amended . . . . .	VII	2
section 14 amended . . . . .	"	3
section 28 amended . . . . .	"	4
section 36A inserted . . . . .	"	5
section 116A inserted . . . . .	"	6
section 126 amended . . . . .	"	7
section 176 amended . . . . .	"	8
section 218 amended . . . . .	"	9

	ACT.	SECTION.
ACT II OF 1924 (CANTONMENTS)— <i>contd</i>		
section 233 amended . . . . .	VII	9
section 235 amended . . . . .	„	10
section 237 amended . . . . .	„	11
section 272 amended . . . . .	„	12
section 280 amended . . . . .	„	13
Schedule V amended . . . . .	„	13
for the words “Commanding Officer of the Cantonment” wherever they occur in the Act were substituted the words “Officer Commanding the Station”	„	14
ACT VI OF 1924 (CRIMINAL TRIBES)—		
section 10 amended . . . . .	XXXIII	2
ACT XII OF 1924 [SOLDIERS LITIGATION (AMENDMENT)]—		
repealed . . . . .	IV	15
ACT XIX OF 1925 (PROVIDENT FUNDS)—		
section 2 amended . . . . .	XXVIII	2
section 6 amended . . . . .	„	3
ADEMPITION—		
see Indian Succession Act, 1925.		
ADMINISTRATION—		
see Indian Succession Act, 1925.		
ADMINISTRATION BOND—		
see INDIAN Succession Act, 1925.		
ADMINISTRATOR—		
see Indian Succession Act, 1925.		
ADMINISTRATOR GENERAL'S ACT, 1913.		
see Indian Succession Act, 1925.		
ARREST—		
exemption from.		
see Legislative Members' Exemption Act, 1925.		
ASSESSOR—		
Legislative Members' exemption from liability to serve as.		
see Legislative Members' Exemption Act, 1925.		
BAMBOO PAPER INDUSTRY (PROTECTION) ACT, 1925 .	XXV	1
Protection—		
discriminating, of paper industry, object of Act . . . . .	„	Preamble.
see Act VIII of 1894.		
BENGAL ACT II OF 1922 (BENGAL CHILDREN)—		
certain provisions validated . . . . .	XXXV	2

	ACT.	SECTION.
BENGAL CHILDREN ACT, 1922— <i>see</i> Bengal Act II of 1922.		
BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) ACT, 1925 . . . . .	*	1
appeals and confirmations . . . . .		3
bar of certain legal proceedings . . . . .		6
construction . . . . .		5
definitions . . . . .		2
power to order custody in jail outside Bengal . . . . .		4
BEQUEST— <i>see</i> Indian Succession Act, 1925.		
BILL OF LADING— <i>see</i> Indian Carriage of Goods by Sea Act, 1925.		
BOMBAY ACT II OF 1890 (BOMBAY SALT)—		
section 3 amended . . . . .	XXII	2 & Sch.
section 4 amended . . . . .	”	”
section 5 amended . . . . .	”	”
section 6 amended . . . . .	”	”
section 7 amended . . . . .	”	”
section 8 amended . . . . .	”	”
section 10 amended . . . . .	”	”
section 13 amended . . . . .	”	”
section 14 amended . . . . .	”	”
section 17 amended . . . . .	”	”
section 24 amended . . . . .	”	”
section 25 amended . . . . .	”	”
section 36 amended . . . . .	”	”
section 37 amended . . . . .	”	”
section 42 amended . . . . .	”	”
section 52 amended . . . . .	”	”
section 57 amended . . . . .	”	”
section 58 amended . . . . .	”	”
section 59 amended . . . . .	”	”
section 60 amended . . . . .	”	”
the words “Collector” and “Collectors” substituted for the words “Commissioner” and “Commissioners” in the Act except in certain sections . . . . .	”	”
BOMBAY ACT XIII OF 1924 (BOMBAY CHILDREN)— certain provisions validated . . . . .	XXXV	2
BOMBAY CHILDREN ACT, 1924. <i>see</i> Bombay Act XIII of 1924.		
BOMBAY REGULATION VIII OF 1827— <i>see</i> Indian Succession Act, 1925.		
BURMA LAWS— <i>see</i> Act XIII of 1898.		

\* No number was given to this Act which was made by the Governor General under section 67B of the Government of India Act.

	ACT.	SECTION.
CANTONMENTS— <i>see</i> Act II of 1924.		
CANTONMENTS (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act II of 1924.	VII	1
CANTONMENTS (HOUSE-ACCOMMODATION)— <i>see</i> Act VI of 1923.		
CANTONMENTS (HOUSE-ACCOMMODATION AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act VI of 1923.	X	1
CARRIAGE OF GOODS— <i>see</i> Indian Carriage of Goods by Sea Act, 1925.		
CARRIER— <i>see</i> Indian Carriage of Goods by Sea Act, 1925.		
CAVEAT— <i>see</i> Indian Succession Act, 1925.		
CHILDREN— <i>see</i> Madras, Bengal and Bombay Children (Supple- mentary) Act, 1925.		
CIVIL PRISON— exemption from detention in. <i>see</i> Legislative Members' Exemption Act, 1925.		
CIVIL PROCEDURE— <i>see</i> Act V of 1908. Act XXIX of 1923.		
COAL— <i>see</i> Coal Grading Board Act, 1925.		
COAL GRADING BOARD ACT, 1925 . . . . .	XXXI	1 (1)
Bengal Chamber of Commerce— to nominate member for Coal Grading Board . . . . .	„	3 (b)
Bengal National Chamber of Commerce— to nominate member for Coal Grading Board . . . . .	„	„
Coal— grading of . . . . .	„	4
grant of export certificate in respect of graded . . . . .	„	6
grant of preference in the supply of wagons for export of graded . . . . .	„	8
grant of rebate of charges in the export of graded . . . . .	„	8
Coal Grading Board— a body corporate . . . . .	„	3 (2)
constitution and members . . . . .	„	3
fees received by, how applied . . . . .	„	9
grant by, of export certificate . . . . .	„	6



	ACT.	SECTION.
<b>COAL GRADING BOARD ACT, 1925—contd.</b>		
Coal Grading Board— <i>contd.</i>		
maintenance by, of grade list . . . . .	XXXI	5
members' power of inspection . . . . .	"	7
power to acquire property . . . . .	"	3 (2)
contract . . . . .	"	"
grade collieries . . . . .	"	4
grant certificate <i>re</i> grading . . . . .	"	"
revise grading . . . . .	"	"
President of . . . . .	"	3 (3)
Secretary to be appointed by . . . . .	"	3 (4)
validity of acts done by . . . . .	"	10
Export certificate—		
grant of . . . . .	"	6
Governor General in Council—		
appointment by, of members of the Board, in certain cases . . . . .	"	3 (1)
constitution of Coal Grading Board by . . . . .	"	"
power to make rules . . . . .	"	12
Graded Colliery—		
defined . . . . .	"	2 (c)
Grade List—		
maintenance and publication of . . . . .	"	5
Indian Mining Association—		
to nominate member for Coal Grading Board . . . . .	"	3 (b)
Indian Mining Federation—		
to nominate member for Coal Grading Board . . . . .	"	"
Railway Board—		
Chief Mining Engineer to, a member of Coal Grading Board . . . . .	"	3 (1)
<i>ex-officio</i> President of the Board . . . . .	"	3 (3)
Rules—		
provisions for . . . . .	"	12
Suit—		
bar of, for acts done under Act . . . . .	"	11
CODE OF CIVIL PROCEDURE (AMENDMENT) ACT, 1925 . . . . .	XX	1
<i>see</i> Act V of 1908.		
CODICIL—		
<i>see</i> Indian Succession Act, 1925.		
CONSANGUINITY—		
<i>see</i> Indian Succession Act, 1925.		
COTTON CESS—		
<i>see</i> Act XIV of 1923.		
COTTON GINNING FACTORY—		
<i>see</i> Cotton Ginning and Pressing Factories Act, 1925.		

	ACT.	SECTION.
COTTON GINNING AND PRESSING FACTORIES ACT, 1925 . . . . .	XII	1 (1)
Company—		
liability of officers of, for offence under Act . . . . .	„	10
Contract—		
for baled cotton : power to reject unmarked bales . . . . .	„	14
Cotton ginning factory—		
liability of lessee . . . . .	„	7
liability on transfer of ownership . . . . .	„	8
owner's duties as to maintenance of registers . . . . .	„	3
procedure on transfer of ownership . . . . .	„	8
structural requirements for . . . . .	„	9
Cotton pressing factory—		
liability of lessee . . . . .	„	7
liability on transfer of ownership . . . . .	„	8
owner's duties as to maintenance of registers . . . . .	„	3
marking of bales . . . . .	„	4
submission of returns re number . . . . .	„	5
of bales pressed . . . . .	„	5
Governor General in Council—		
power of, to make rules . . . . .	XII	12
Indian Central Cotton Committee—		
meaning of . . . . .	„	2
Local Government—		
power of, to make rules . . . . .	„	13
Offences—		
cognizance of . . . . .	„	11
liability of officers of company for . . . . .	„	10
Registers—		
maintenance of . . . . .	„	3
offences relating to, and penalties therefor . . . . .	„	„
preservation of, for three years . . . . .	„	„
Rules—		
powers to make—		
by Governor General in Council . . . . .	„	12
Local Government . . . . .	„	13
Scales and weights—		
provisions regarding . . . . .	„	6
Suit—		
bar of, in respect of things done under Act . . . . .	„	15
COTTON TRANSPORT (AMENDMENT) ACT, 1925 . . . . .	XXXIV	1
<i>see</i> Act III of 1923.		
COURT OF WARDS—		
<i>see</i> Indian Succession, Act, 1925.		
CRIMINAL LAW—		
<i>see</i> Bengal Criminal Law Amendment (Supplementary) Act, 1925.		
CRIMINAL PROCEDURE—		
<i>see</i> Act V of 1898.		

	ACT.	SECTION.
CRIMINAL TRIBES (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act VI of 1924.	XXXIII	1
CURATOR— <i>see</i> Indian Succession Act, 1925.		
DEVOLUTION— <i>see</i> Act XXXVIII of 1920.		
DISTRICT DELEGATE— <i>see</i> Act VI of 1881. Indian Succession Act 1925.		
DISTRICT JUDGE— <i>see</i> Indian Succession Act, 1925.		
DIVORCE— <i>see</i> Act IV of 1869.		
DOMICILE— <i>see</i> Indian Succession Act, 1925.		
ELECTION— <i>see</i> Indian Succession Act, 1925.		
ELECTRICITY— <i>see</i> Act IX of 1910.		
EXECUTOR— <i>see</i> Indian Succession Act, 1925.		
EXEMPTION— <i>see</i> Indian Succession Act, 1925. Legislative Members Exemption Act, 1925.		
FINANCE— <i>see</i> Indian Finance Act, 1924. Indian Finance Act, 1925.		
GRADED COLLIERY— <i>see</i> Coal Grading Board Act, 1925.		
GURDWARAS— <i>see</i> Sikh Gurdwaras (Supplementary) Act, 1925.		
HIGH COURT— <i>see</i> Indian Succession Act, 1925.		



	ACT.	SECTION.
INDIAN FINANCE ACT, 1924 * section 2 repealed . . . . .	XIII	2 (2)
INDIAN FINANCE ACT, 1925 . . . . .	XIII	1 (1)
Amendments . . . . .	"	3, 5, 6.
Duration and extent . . . . .	"	1 (2) & (3)
Income-tax— fixation of rate . . . . .	"	7 & Sch. III.
Postal rates— fixation of . . . . .	"	4 & Sch. II.
Salt duty— fixation of . . . . .	"	2
Super-tax— fixation of rate . . . . .	"	7 & Sch. III.
Total income— meaning of . . . . .	"	7 (3)
INDIAN INCOME-TAX (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act XI of 1922.	V	1
INDIAN INCOME-TAX (SECOND AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act XI of 1922.	XVI	1
INDIAN LAW REPORTS— <i>see</i> Act XVII of 1875.		
INDIAN LIMITATION (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act IX of 1908.	XXX	1
INDIAN MERCHANT SHIPPING (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act XXI of 1923.	I	1
INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act XXI of 1923.	XI	1
INDIAN MINING ASSOCIATION— <i>see</i> Coal Grading Board Act, 1925.		
INDIAN MINING FEDERATION— <i>see</i> Coal Grading Board Act, 1925.		
INDIAN PAPER CURRENCY (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act X of 1923.	II	1
INDIAN PENAL CODE (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act XLV of 1860. Act V of 1898.	XXIX	1

\* No number was given to this Act which was made by the Governor General under Section 67B of the Government of India Act.

	ACT.	SECTION.
INDIAN PORTS (AMENDMENT) ACT, 1925 . . . . .	IX	1
<i>see</i> Act XV of 1908.	XXXVI	1
INDIAN SOLDIERS (LITIGATION)— <i>see</i> Act IX of 1918. Indian Soldiers (Litigation) Act, 1925.		
INDIAN SOLDIERS (LITIGATION) ACT, 1925 . . . . .	IV	1 (1)
Governor General in Council— power to apply provisions of Act to persons in the service of the Crown other than Indian soldiers . . . . .	„	14
Limitation— Modification of law of, when Indian soldier serving under special or War conditions . . . . .	„	11
Local Government— rule-making power of . . . . .	„	13
Soldier— legal proceedings affecting— collector's intervention in case of unrepresented soldiers . . . . .	„	5
mention in, of special conditions in which soldier serving . . . . .	„	4
postponement of— in case of leave . . . . .	„	9
in case of service under special conditions . . . . .	„	7
exceptions . . . . .	„	8
power to set aside decrees and orders against Indian soldier serving under special or War conditions . . . . .	„	10
limitation of application for the exercise of this power . . . . .	„	10 (2)
suspension of, in certain cases . . . . .	„	6
when deemed to be serving under special or War conditions . . . . .	„	3
Special conditions— mention of, in legal proceedings . . . . .	„	4
modification of law of limitation in . . . . .	„	11
reference in case of doubt regarding . . . . .	„	12
what constitutes . . . . .	„	3 (a)
War conditions— modification of law of limitation in . . . . .	„	11
reference in case of doubt regarding . . . . .	„	12
what constitutes . . . . .	„	3 (b)
INTESTACY— <i>see</i> Indian Succession Act, 1925.		
INTESTATE SUCCESSION— <i>see</i> Indian Succession Act, 1925.		

	ACT.	SECTION.
INDIAN STAMP (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act II of 1899.	XV	1
INDIAN SUCCESSION ACT, 1925—		
Abatement—		
of annuities . . . . .	XXXIX	175
legacies . . . . .	”	327, 328, 330, 331.
Adeption—		
of legacies: provisions <i>re</i> . . . . .	”	152
Administration—		
by representative of residuary legatee . . . . .	”	233
during minority of sole executor or residuary legatee . . . . .	”	244
grant of, to legatee other than universal or residuary subject to issuing and publication of citation . . . . .	”	235
grant of, where executor renounces or fails to accept within time limited . . . . .	”	231
grant of, where no executor, residuary legatee or re- presentative of such residuary legatee . . . . .	”	234
in case of will proved abroad . . . . .	”	228
<i>pendente lite</i> . . . . .	”	247
to whom may not be granted <i>see</i> Letters of Administration.	”	236
Administration Bond—		
assignment of . . . . .	”	292
who to give: general provisions <i>re</i> . . . . .	”	291
Administrator(s)—		
assent by one of several . . . . .	”	311
assent of—		
conditional . . . . .	”	334
effect of, generally . . . . .	”	336
to specific legacy . . . . .	”	333
express or implied . . . . .	”	333, 335
necessity of . . . . .	”	332
to his own legacy . . . . .	”	335
character and property of . . . . .	”	211
commission or agency charges admissible to: rate . . . . .	”	309
directions to, in regard to estate or administration thereof . . . . .	”	302
duties of—		
as to collection of property of, and debts due to deceased . . . . .	”	319
submission of inventory of deceased's assets and liabilities and account . . . . .	”	317
general powers of expenditure . . . . .	”	308
letters of administration during minority . . . . .	”	244—246
liability of—		
for devastation of estate . . . . .	”	368
for neglect to get in any part of property . . . . .	”	369
powers of—		
as to effects unadministered . . . . .	”	313
during minority . . . . .	”	314
to dispose of property of deceased . . . . .	”	307

	ACT.	SECTION.
<b>INDIAN SUCCESSION ACT, 1925—contd.</b>		
Administrator(s)— <i>contd.</i>		
powers of— <i>contd.</i>		
to sue and recover debts . . . . .	XXXIX	305
purchase by, of deceased's property: sale voidable . . . . .	"	310
removal of, and provision for successor . . . . .	"	301
survival to and against, of demands and rights of action of and against deceased . . . . .	"	306
when one may exercise powers of several . . . . .	"	311
when power of office becomes vested in survivor on death of one or more . . . . .	"	312
when to deliver legacy . . . . .	"	337
Administrator General's Act, 1913—		
production of certificate granted under, for recovery of debt due to deceased . . . . .	"	214
Alteration—		
in grants of administration . . . . .	"	262
of will . . . . .	"	71
Ambiguity—		
in wills: admission or otherwise of evidence to explain . . . . .	"	80, 81
Annuity—		
abatement of . . . . .	"	175
commencement of, when no time fixed by will . . . . .	"	338
created by will: how long payable . . . . .	"	173
interest on . . . . .	"	354, 355
payment of—		
time for first, when to be paid monthly or quarterly . . . . .	"	339
time for successive . . . . .	"	340
order of, when annuity coupled with residuary gift procedure where no fund charged with or appropriated to . . . . .	"	176
period of vesting of, and option in regard to, when provided out of property or sum bequeathed for purchase . . . . .	"	343
	"	174
Appointment—		
general power of, executed by general bequest . . . . .	"	91
implied gift to objects of power, in default of . . . . .	"	92
power of, defined . . . . .	"	69
Apportionment—		
of annuity when annuitant dies between times of payment . . . . .	"	340 (2)
Attestation—		
of will . . . . .	"	63
Attorney—		
limited grant of letters of administration to . . . . .	"	241—243



	ACT.	SECTION.
<b>INDIAN SUCCESSION ACT, 1925—contd.</b>		
<b>Bequest—</b>		
completion of testator's title to be at cost of his estate	XXXIX	168
conditional: provisions <i>re</i> . . . . .	"	126—137
construction: rules of, in case of two bequests to the same person . . . . .	"	101
contingent: provisions <i>re</i> . . . . .	"	124—125
transfer of, to residuary legatee . . . . .	"	344
creditor: position of, in respect of legacy from debtor . . . . .	"	177
executor's duties in respect of things described in general terms . . . . .	"	171
from debtor and parent to creditor and portioner: effect of . . . . .	"	177, 178
election: doctrine of, in its application to, provisions <i>re</i> . . . . .	"	180—190
in alternative . . . . .	"	96
of annuities: provisions <i>re</i> . . . . .	"	173—176
of interest or produce of fund . . . . .	"	172
onerous: provisions <i>re</i> . . . . .	"	122—123
portioner: position of, in respect of legacy from parent . . . . .	"	178
power of appointment: provisions <i>re</i> . . . . .	"	91, 92
provisions <i>re</i> payment of liabilities in respect of . . . . .	"	167, 169, 170.
restraint on making, for religious or charitable uses . . . . .	"	118
<b>Specific—</b>		
lien or encumbrance on—		
non-liability of executor to exonerate specific legatee from . . . . .	"	167
payment of liabilities in respect of . . . . .	"	"
to a described class of whom some predecease testator . . . . .	"	111
to class of persons under general description . . . . .	"	98
to executor . . . . .	"	141
to heirs, etc., of a particular person without qualifying terms . . . . .	"	93
to one person for the benefit of another . . . . .	"	110
to person followed by words describing a class . . . . .	"	97
to representatives, etc., of a particular person . . . . .	"	94
to testator's child or other lineal descendant . . . . .	"	109
to two or more persons in succession: sale and investment of proceeds . . . . .	"	148
under what circumstances void . . . . .	"	112—118
with directions as to application or enjoyment: provisions <i>re</i> . . . . .	"	138—140
<b>Bombay Regulation No. VIII of 1827—</b>		
certificate granted under, for recovery of debt due to deceased . . . . .	"	214
<b>Caveat—</b>		
against grant of probate or letters of administration . . . . .	"	284
form of . . . . .	"	"
procedure on entering . . . . .	"	284, 285

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Codicil—		
defined . . . . .	XXXIX	2 (b)
revocation of probate of the will, when different executors appointed by . . . . .	„	225
separate probate of, when discovered after grant of probate of will . . . . .	„	225
provisions of Part VI of Act applicable to certain . . . . .	„	57 & Sch. II.
Consanguinity—		
collateral . . . . .	„	26
computation of degree . . . . .	„	26 (2)
lineal . . . . .	„	25
computation of degree . . . . .	„	25 (3)
exclusion of application of provisions <i>re</i> . . . . .	„	23
mode of computation of degree of kindred . . . . .	„	28
persons held to be similarly related to the deceased for purposes of succession . . . . .	„	27
table of . . . . .	„	28 & Sch. I.
what is . . . . .	„	24
Contingent bequest—		
<i>see</i> Bequest.		
Court of Wards—		
action by, for protection of property of minor . . . . .	„	192
payment on delivery of bequest to, when legatee a ward . . . . .	„	348
possession of property by, to remain unaffected notwithstanding provisions of Chapter VII of Act . . . . .	„	207
Creditor—		
<i>see</i> Bequest.		
Crown—		
escheat of intestate's property to . . . . .	„	34
Curator—		
<i>see</i> Deceased—property of.		
Debts—		
<i>see</i> Deceased.		
Curator—		
appointment of . . . . .	„	195
accounts to be filed by . . . . .	„	202
allowance to apparent owner of property pending custody by . . . . .	„	201
bar of appointment of second, in respect of same property . . . . .	„	204
Court of Wards to be made Curators in case of minors being its wards . . . . .	„	207
institution and defence of suits by . . . . .	„	200
payment of debts, etc., to . . . . .	„	197
powers, duties and limitation of authority of . . . . .	„	196, 197, 202

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Curator— <i>contd.</i>		
public, appointment of, by Local Government . . . . .	XXXIX	210
to give security and may receive remuneration . . . . .	„	198
Deceased—		
Assets of—		
application to District Judge for protection of, against wrongful possession . . . . .	„	192
limitation of application . . . . .	„	205
appointment of Curator in respect of . . . . .	„	195
distribution of . . . . .	„	360, 367
effect of decision of summary proceeding in respect of, by District Judge . . . . .	„	209
liability of executor or administrator for devastation . . . . .	„	368
liability of executor or administrator for neglect to get in any part of the property . . . . .	„	369
public act of settlement or any legal direction in respect of, not affected by provisions of Chapter VII of Act . . . . .	„	206
suit to lie in respect of, notwithstanding provisions of Part VII of Act . . . . .	„	208
transfer of, from British India to executor or administrator in country of domicile, for distribution . . . . .	„	367
Debts against—		
application of moveable property to payment of, where domicile not in British India . . . . .	„	324
order of payment: provisions regarding . . . . .	„	320—323,
Debts due to—		
recovery of: proof of representative title . . . . .	„	325 214
Intestacy—		
granting of administration in the case of Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person and in other cases . . . . .	„	218, 219
Definitions . . . . .	„	2
District Delegate—		
appointment of . . . . .	„	265
filing of original wills by, for record . . . . .	„	294
functions of, exercisable in non-contentious cases of probate and letters of administration . . . . .	„	265
grant by, of probate or letters of administration to be under seal of Court . . . . .	„	289, 290
proceedings in Court of, in relation to probate or letters of administration . . . . .	„	283
power to transmit statement to District Judge in connection with probate or letters of administration proceedings . . . . .	„	287
procedure where there is contention or when refusal decided on, <i>re</i> grant of probate or letters of administration . . . . .	„	288
when not to grant probate or letters of administration . . . . .	„	286

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
District Judge—		
application to, for protection of property of deceased inquiries to be made by, in disposing of application . . . . .	XXXIX	192
appointment of Curator by, pending determination of proceedings . . . . .	”	193
disposal by, of applications for probate or letters of administration where deceased had no fixed abode at the district of the judge . . . . .	”	195
filing of original wills by, for record . . . . .	”	271
grant of Succession Certificate by . . . . .	”	294
jurisdiction of, in granting and revoking probate and letters of administration . . . . .	”	371
payment or delivery of bequest into the Court of, when legatee a minor . . . . .	”	264
powers of—		
as to grant of probate or letters of administration to order person to produce testamentary papers . . . . .	”	348
proceedings in Court of, in relation to probate or letters of administration how regulated . . . . .	”	266
to grant probate and letters of administration under seal of Court . . . . .	”	267
when and how to interfere for protection of property when probate or letters of administration may be granted by . . . . .	”	268, 283
	”	289, 290
	”	269
	”	270
Domicile—		
acquired by woman on marriage . . . . .	”	15
acquisition of new . . . . .	”	10
continuanee . . . . .	”	13
continuance of . . . . .	”	9
effect of marriage in relation to property between person domiciled in British India and one not so domiciled . . . . .	”	21
how affects succession to moveable and immoveable property . . . . .	”	5
in British India : special mode of acquiring . . . . .	”	11
lunatic's acquisition of new domicile . . . . .	”	18
minor's . . . . .	”	14
minor's acquisition of new domicile . . . . .	”	17
of origin—		
of person of illegitimate birth . . . . .	”	8
of person of legitimate birth . . . . .	”	7
one domicile for purposes of succession to moveable property . . . . .	”	6
non-application of the part of Act relating to, in the case of Hindus, Muhammadans, Buddhists, Sikhs or Jainas . . . . .	”	4
residence as representative of foreign Government does not confer . . . . .	”	12
succession to moveables in British India in absence of proof of domicile elsewhere . . . . .	”	19
wife's domicile during marriage . . . . .	”	16

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Donation in contemplation of death— <i>see</i> Gift.		
Election—		
bequest for one's benefit how regarded for purpose of . . . . .	XXXIX	183
circumstances in which takes place . . . . .	"	180
in one character, by person taking benefit under another . . . . .	"	185
interest, relinquished on: devolution of . . . . .	"	181
person deriving benefit indirectly, not put to postponement of, in case of disability . . . . .	"	184
when acceptance of benefit constitutes . . . . .	"	190
when testator's representatives may call for . . . . .	"	187
	"	189
Estate—		
residue bequeathed for life: investment of . . . . .	"	345, 346
time and manner of conversion and investment . . . . .	"	347
Executor—		
accrual of representation on the death of one of several appointed . . . . .	"	226
appointment of, for limited purpose: limitation of probate . . . . .	"	248
appointment of, may be express or implied . . . . .	"	222
appointment of representative for part of estate unadministered . . . . .	"	258, 260
assent of—		
by one of several executors . . . . .	"	311
conditional . . . . .	"	334
effect of—		
generally . . . . .	"	336
on specific legacy . . . . .	"	333
express or implied . . . . .	"	333, 335
necessity of . . . . .	"	332
character and property of . . . . .	"	211
commission or agency charges admissible to: rate . . . . .	"	309
directions to, in regard to estate or administration thereof . . . . .	"	302
duties of—		
as to collection of property of, and debts due to deceased . . . . .	"	319
as to deceased's funeral . . . . .	"	316
submission of inventory of deceased's assets and liabilities and accounts . . . . .	"	317
general powers of expenditure . . . . .	"	308
letters of administration during minority or lunacy of . . . . .	"	244—246
liability of—		
for devastation of estate . . . . .	"	368
for neglect to get in any part of property . . . . .	"	369

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Executor— <i>contd.</i>		
powers of—		
to dispose of property of deceased . . . . .	XXXIX	307
to sue and recover debts . . . . .	"	305
purchase by, of deceased's property : voidability of sale . . . . .	"	310
removal of, and provision for successor . . . . .	"	301
renunciation of executorship . . . . .	"	230
procedure in case of, or on failure to accept executorship . . . . .	"	231
right as, when established . . . . .	"	213
survival to and against of demands and rights of action of and against deceased . . . . .	"	306
when absent or not willing to act : grant of administration to attorney or agent . . . . .	"	241
when can take under will . . . . .	"	141
when one may exercise powers of several . . . . .	"	311
when power of office becomes vested in survivor on death of one or more . . . . .	"	312
Executor of his own wrong—		
defined . . . . .	"	303
liability of . . . . .	"	304
Exemption—		
definition of exempted persons . . . . .	"	3 (3)
power of Local Government to exempt, from operation of Act . . . . .	"	3 (1)
Gifts—		
in contemplation of death . . . . .	"	191
Grants—		
of probate and letters of administration—		
alteration and revocation of . . . . .	"	261—263
for special purpose . . . . .	"	248—254
for the use and benefit of others having right . . . . .	"	241—247
general provisions <i>re</i> . . . . .	"	218—236
limited in duration . . . . .	"	237—240
of effects unadministered . . . . .	"	258—260
of the rest . . . . .	"	257
powers of District Judge in relation to. <i>See</i> District Judge.		
powers of District Delegate in relation to. <i>See</i> District Delegate.		
High Court—		
concurrent jurisdiction of, with District Judge in respect of proceedings <i>re</i> probate and letters of administration . . . . .	"	300
power to appoint Curators . . . . .	"	195
power to appoint District Delegates . . . . .	"	265
power to give directions to executor or administrator in regard to estate or administration thereof . . . . .	"	302
removal, etc., by, of executor or administrator . . . . .	"	301

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Husband—		
of attesting witness: bequest to . . . . .	XXXIX	67
previous consent of, necessary—		
for grant of administration to married women . . . . .	”	236
for grant of probate to married women . . . . .	”	223
Indian Christian—		
defined . . . . .	”	2 (d)
Intestacy—		
person entitled to the estate in case of: granting of letters of administration during minority or lunacy . . . . .	”	246
right to property of: subject to grant of letters of administration . . . . .	”	212
exception in the case of Hindu, Muhammadan, Buddhist, Sikh, Jaina or Indian Christian . . . . .	”	212
Intestate—		
as to what property death is . . . . .	”	30
devolution of property . . . . .	”	32
rules regarding . . . . .	”	33, 34
distribution of property—		
where there are lineal descendants . . . . .	”	36—40
where there are no lineal descendants . . . . .	”	41—48
exclusion of application of provisions regarding intestate succession . . . . .	”	29
order of next-of-kin in case of Parsi intestates . . . . .	”	55, 56 & Sch. II
provisions which are to constitute law of intestate succession in British India with certain exceptions . . . . .	”	29 (2)
rules of intestate succession among Parsis . . . . .	”	50—56
Legacy—		
abatement of: provisions <i>re</i> . . . . .	”	327, 328, 330, 331
ademption of—		
explained . . . . .	”	152
provisions <i>re</i> . . . . .	”	152, 154— 156, 158, 159, 162
when not adeemed . . . . .	”	153, 160— 166
assent of executor or administrator to demonstrative—		
defined . . . . .	”	150
order of payment of, when fund subject to specific legacy . . . . .	”	151
right under, when assets sufficient to pay debts and necessary expenses . . . . .	”	329
when not adeemed . . . . .	”	153

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Legacy— <i>contd.</i>		
effect of words showing intention to give distinct shares . . . . .	XXXIX	107
general: payable in future: investment of . . . . .	"	342
given for life: investment of sum bequeathed . . . . .	"	341
interest on: provisions <i>re</i> . . . . .	"	351—353
payment of: subject to indemnity when estate subject to contingent liability . . . . .	"	326
payment or delivery of: time for . . . . .	"	337
refund of—		
provisions <i>re</i> . . . . .	"	356—359. 361—364
to bear no interest . . . . .	"	365
specific—		
ademption of . . . . .	"	154, 155
definition of . . . . .	"	142
legatee's title to the produce of . . . . .	"	349
non-abatement of, when assets sufficient to pay debts . . . . .	"	328
not to abate with general legacies for deficiency of assets . . . . .	"	149
order of payment of demonstrative legacy when fund subject of . . . . .	"	151
order of payment of, in certain cases of deficiency of funds . . . . .	"	157
other provisions <i>re</i> . . . . .	"	143—147
rateable abatement of . . . . .	"	330
vesting of, in different circumstances . . . . .	"	104, 119—121
when given to two persons jointly: death of one . . . . .	"	106
when lapsed share goes as undisposed of . . . . .	"	108
when lapses . . . . .	"	105
Legatee—		
right as, when established . . . . .	"	213
Letters of Administration—		
acts of administrator prejudicial to the intestate's estate not validated by . . . . .	"	221
appeal from proceedings in respect of . . . . .	"	299
application for: conclusive for the purpose of authorising the grant of, when properly made . . . . .	"	275
bar of Courts to receive . . . . .	"	264
conclusiveness of, as to representative title . . . . .	"	273
effect of . . . . .	"	220
errors in, that may be rectified by Court . . . . .	"	261
expenses incurred in obtaining: order of payment . . . . .	"	321
grant of—		
alteration of, on subsequent discovery of codicil . . . . .	"	262
by District Delegate . . . . .	"	272
by District Judge . . . . .	"	270, 271
caveat against . . . . .	"	284
in certain cases of minority or lunacy . . . . .	"	246



	ACT.	SECTION.
<b>INDIAN SUCCESSION ACT, 1925—contd.</b>		
<b>Letters of Administration—contd.</b>		
<b>grant of—contd.</b>		
in respect of remainder of the deceased's estate . . . . .	XXXIX	257
limited in duration—		
until will produced . . . . .	”	240
to attorney or agent of absent executor . . . . .	”	241
powers of District Judge or District Delegate in relation to . . . . .	”	283
limited to collection and preservation of deceased's property . . . . .	”	253
limited to particular purpose . . . . .	”	249
limited to purpose of becoming party to suit against executor or administrator . . . . .	”	252
as subject to exceptions . . . . .	”	255
in respect of will proved abroad . . . . .	”	228
time for . . . . .	”	256, 293
to attorney or agent of absent person . . . . .	”	242
to beneficiary limited to trust property . . . . .	”	250
to be under Seal of Court: form . . . . .	”	290
to nominee of party in suit where executor, etc., unable or unwilling to act . . . . .	”	251
to person other than one who would in ordinary circumstances be entitled to administration . . . . .	”	254
to residuary or universal legatee . . . . .	”	232
when executor dies before full administration of estate . . . . .	”	232
when executor has not renounced . . . . .	”	229
when executor legally incapable or refuses to act . . . . .	”	232
when no executor appointed by will . . . . .	”	”
grantee of: to sue, etc. . . . .	”	216
petition for: contents . . . . .	”	276, 278, 279
signature and verification . . . . .	”	280
power to refuse . . . . .	”	298
proceedings in relation to, how regulated . . . . .	”	268
concurrent jurisdiction of High Court with District Judge . . . . .	”	300
procedure in contentious cases . . . . .	”	295
production of, for recovery of debt due to deceased . . . . .	”	214
revocation or annulment of . . . . .	”	263
payment to executor or administrator before: effect of . . . . .	”	297
surrender of, on . . . . .	”	296
punishment for default . . . . .	”	”
supersedes all previous certificates under Succession Certificate Act, 1889, etc. . . . .	”	215
transmission to High Courts of, certificates of grant . . . . .	”	274
<i>see Administration.</i>		
<b>Lunatic—</b>		
when sole executor—granting of letters of administration to . . . . .	”	246

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Marriage—		
between person domiciled and one not domiciled in British India—		
effect of, in regard to each other's property . . .	XXXIX	21
interest in, or power over property not acquired or lost by . . .	"	20 (1)
exception in respect of certain marriages . . .	"	20 (2)
settlement of minor's property in contemplation of . . .	"	22
Married woman—		
powers of, as executrix or administratrix . . .	"	315
restraint on granting of letters of administration to : exceptions . . .	"	236
restraint on granting of probate to . . .	"	223
Minor—		
bar of appointment as executor . . .	"	236
bar of granting of letters of administration to . . .	"	"
bequest on behalf of—		
when paid into the Court of District Judge . . .	"	348
when paid to the Court of Wards . . .	"	"
defined . . .	"	2 (c)
when sole executor, residuary on universal legatee, granting of letters of administration . . .	"	246
Perpetuity—		
rule against . . .	"	114
Portioner—		
<i>see</i> Bequest.		
Probate—		
application for : conclusive for the purpose of authorising grant of probate when properly made and verified . . .	"	275
bar of Courts to receive . . .	"	264
conclusiveness of, as to representative title . . .	"	273
definition . . .	"	2 (f)
effect of, on subsequent succession certificate . . .	"	385
errors in, that may be rectified by Court . . .	"	261
expenses incurred in obtaining : order of payment . . .	"	321
grant of—		
by District Delegate . . .	"	272
District Judge . . .	"	270, 271
caveat against . . .	"	284
form of . . .	"	289 & Sch. VI.
in respect of contents of will established by evidence . . .	"	238
powers of District Judge or District Delegate in relation to . . .	"	283
subject to exception . . .	"	255

	ACT.	SECTION.
INDIAN SUCCESSION ACT, 1925— <i>contd.</i>		
Probate— <i>contd.</i>		
grant of— <i>contd.</i>		
to be under seal of Court . . . . .	XXXIX	289
to whom can be granted . . . . .	"	222
to whom cannot be granted . . . . .	"	223
when there are several executors . . . . .	"	224
in respect of the remainder of the deceased's estate . . . . .	"	257
limitation of, to purpose specified in the will . . . . .	"	248
of copy of will when original not immediately available . . . . .	"	239
of draft or copy of will when will lost . . . . .	"	237
petition for—		
contents of . . . . .	"	276, 279
signature and verification . . . . .	"	280, 281, 282
translation of will when annexed to . . . . .	"	277
power to sue, etc., under . . . . .	"	216
proceedings in respect of—		
appeal from . . . . .	"	299
concurrent jurisdiction of High Court with District Judge . . . . .	"	300
how regulated . . . . .	"	268
in contentious cases . . . . .	"	295
production of, for recovery of debt due to deceased . . . . .	"	214
revocation of . . . . .	"	263
effect of payment to executor or administrator before . . . . .	"	297
revocation of, and granting of new when different executors appointed by . . . . .	"	225
supersedes all previous certificates under Succession Certificate Act, 1889, etc. . . . .	"	215
surrender of, on revocation . . . . .	"	296
time for grant of . . . . .	"	293
transmission to High Courts of certificates of grant . . . . .	"	274
Property—		
procedure for determining right to possession . . . . .	"	194
relief against wrongful possession . . . . .	"	192
Residuary Legatee—		
constitution of . . . . .	"	102
grant of administration to . . . . .	"	232
during minority . . . . .	"	244
payment to . . . . .	"	366
property to which entitled . . . . .	"	103
right to administer estate by the representative of . . . . .	"	233
Specific Legatee—		
entitled to produce of specific legacy from testator's death . . . . .	"	349
Succession—		
intestate—		
general provisions regarding . . . . .	"	29—56
special rules for Parsis . . . . .	"	50—56

xxviii INDEX TO THE ACTS OF THE INDIAN LEGISLATURE AND OF

	ACT.	SECTION.
<b>INDIAN SUCCESSION ACT, 1925—contd.</b>		
Succession—contd.		
testamentary—		
application of provisions <i>re</i> , to Hindus, Bud- dhists, Sikhs or Jains . . . . .	XXXIX	57 & Sch. III.
exclusion of application of provisions . . . . .	”	58
general provisions regarding, being the law in British India . . . . .	”	57—191.
to immoveable property in British India . . . . .	”	5
moveable property . . . . .	”	”
property of intestate Parsis . . . . .	”	50—56.
Succession Certificate—		
amendment of, in respect of powers as to securities . . . . .	”	378
appeal from proceedings in respect of . . . . .	”	384, 388
application for . . . . .	”	372
procedure on . . . . .	”	373
contents of . . . . .	”	374
court fees on : mode of collecting . . . . .	”	379
effect of . . . . .	”	381
extension of, to other debts or securities not originally included . . . . .	”	376
forms of . . . . .	”	377 & Sch. VIII.
granted or extended by British representative in foreign State: effect of . . . . .	”	382
grant of, in respect of effects of Indian Christian . . . . .	”	370
local extent of . . . . .	”	380
effect on, of previous certificate, of probate or of letters of administration . . . . .	”	385
Administrator Generals Act, 1913— Saving of, from provisions of Act . . . . .	”	391
Bombay Regulation VIII of 1827—		
Succession Certificate under: application of pro- visions of Act to proceedings in respect of . . . . .	”	390
grant of—		
by District Judge . . . . .	”	371
investing subordinate Courts with powers of District Court for purpose of . . . . .	”	388
powers of grantee . . . . .	”	374
restriction on . . . . .	”	370
grantee of—		
powers of . . . . .	”	374
security from . . . . .	”	375
meaning of . . . . .	”	370
revocation of . . . . .	”	383
appeal against . . . . .	”	384
saving of suit to try questions decided under provisions relating to . . . . .	”	387
surrender of superseded and invalid certificates . . . . .	”	389
when rendered invalid: validation of certain pay- ments made under . . . . .	”	386

	ACT.	SECTION.
<b>INDIAN SUCCESSION ACT, 1925—contd.</b>		
Succession Certificate Act, 1889— certificate granted under: production of, for recovery of debt due to deceased . . . . .	XXXIX	214
Trustee— letter of administration to beneficiary on death of . . . . .	„	250
Universal Legatee— grant of administration to . . . . .	„	232
Unsound Mind— bar of granting of letters of administration to persons of . . . . .	„	236
Wills—		
ambiguity in—		
when evidence admissible to explain . . . . .	„	80
when evidence not admissible to explain . . . . .	„	81
appointment of guardian for minor child by . . . . .	„	60
clauses in—		
meaning how collected . . . . .	„	82
procedure when susceptible of two meanings . . . . .	„	84
when two clauses irreconcilable . . . . .	„	88
legatee and property under—		
inquiries as to . . . . .	„	75
rejection of erroneous details in description of property . . . . .	„	78
when part of description may not be rejected as erroneous . . . . .	„	79
when legatee misnamed or misdescribed . . . . .	„	76
words describing property to what referable . . . . .	„	90
construction of: provisions re . . . . .	„	75—111
construction of, when two bequests made to same person . . . . .	„	101
effect on, of gift to attesting persons . . . . .	„	67
established by the grant of probate . . . . .	„	227
execution of: signature and attestation . . . . .	„	63
incorporation of papers in, by reference . . . . .	„	64
intention of testator to be effectuated as far as possible . . . . .	„	87
no part rejected if it can be reasonably construed . . . . .	„	85
obliteration, interlineation or alteration in: effect of . . . . .	„	71
privileged—		
may be in writing or by word of mouth . . . . .	„	66
made of making and rules for executing . . . . .	„	66
revocation of . . . . .	„	69, 72
who can execute . . . . .	„	65
procedure when two gifts irreconcilable . . . . .	„	88
provisions of Part VI of Act applicable to certain . . . . .	„	57 & Sch. III.

XXX INDEX TO THE ACTS OF THE INDIAN LEGISLATURE AND OF

	ACT.	SECTION.
<b>INDIAN SUCCESSION ACT, 1925—concl'd.</b>		
Wills— <i>cont'd.</i>		
revival of . . . . .	XXXIX	73
revocation or alteration of . . . . .	"	62, 69, 70, 72.
supply of words to express meaning of . . . . .	"	77
void for fraud, coercion or importunity . . . . .	"	61
for uncertainty . . . . .	"	89
who can make . . . . .	"	59
witness to, not disqualified by interest in, or by being executor . . . . .	"	68
wording of . . . . .	"	74
words in—		
expressing relationship denote legitimate relations. interpretation of, when repeated in different parts of will . . . . .	"	100
may be understood in wider or more restricted sense . . . . .	"	86
		83
<b>INDIAN TARIFF (AMENDMENT) ACT, 1925 . . . . .</b>	<b>XIV</b>	<b>1 (1)</b>
<i>see Act VIII of 1894.</i>		
<b>INTERNATIONAL CONVENTION—</b>		
<i>see Obscene Publications Act, 1925.</i>		
<b>JURORS—</b>		
Legislative Members' exemption from liability to serve as— <i>see Legislative Members' Exemption Act, 1925.</i>		
<b>LAW REPORTS—</b>		
<i>see Act XVIII of 1875.</i>		
<b>LEGACY—</b>		
<i>see Indian Succession Act, 1925.</i>		
<b>LEGAL PRACTITIONERS—</b>		
<i>see Act XVIII of 1879.</i>		
<b>LEGATEE—</b>		
<i>see Indian Succession Act : Legacy ; Residuary Legatee ; Specific Legatee ; Universal Legatee.</i>		
<b>LEGISLATIVE ASSEMBLY (PRESIDENT'S SALARY) ACT, 1925 . . . . .</b>	<b>VI</b>	<b>1</b>
President—		
restriction as to engagement in profession or business . . . . .	"	2 (2)
salary of . . . . .	"	2 (1)
<b>LEGISLATIVE MEMBERS' EXEMPTION ACT, 1925 . . . . .</b>	<b>XXIII</b>	<b>1 (1)</b>

	ACT.	SECTION.
<b>LEGISLATIVE MEMBERS' EXEMPTION ACT, 1925—contd.</b>		
Exemption (of Legislative Members)—		
from arrest or detention . . . . .	XXIII	Preamble.
liability to serve as assessor or juror . . . . .	"	"
<i>see</i> Act V of 1898.		
Act V of 1908.		
<b>LETTERS OF ADMINISTRATION—</b>		
<i>see</i> Indian Succession Act, 1925.		
<b>LIMITATION—</b>		
<i>see</i> Act IX of 1908.		
<b>MADRAS ACT IV OF 1889 (MADRAS SALT)—</b>		
section 1 amended . . . . .	XXII	2 & Sch.
section 3 amended . . . . .	"	"
section 4 substituted . . . . .	"	"
section 5 amended . . . . .	"	"
section 6 amended . . . . .	"	"
section 7 amended . . . . .	"	"
section 9 amended . . . . .	"	"
section 13 amended . . . . .	"	"
section 14 amended . . . . .	"	"
section 15 amended . . . . .	"	"
section 16 amended . . . . .	"	"
section 32 amended . . . . .	"	"
section 43 amended . . . . .	"	"
section 47 amended . . . . .	"	"
section 59 amended . . . . .	"	"
section 71 amended . . . . .	"	"
section 72 amended . . . . .	"	"
section 80 amended . . . . .	"	"
section 85 amended . . . . .	"	"
section 85A amended . . . . .	"	"
section 86 amended . . . . .	"	"
The word "Commissioner" wherever it occurs in the Act substituted by the words "Collector of Salt-revenue"	"	"
<b>MADRAS ACT IV OF 1920 (MADRAS CHILDREN)—</b>		
certain provisions validated . . . . .	XXXV	2
<b>MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) ACT, 1925 . . . . .</b>	XXXV	1
<i>see</i> Bengal Act II of 1922.		
Bombay Act XIII of 1924.		
Madras Act IV of 1920.		
<b>MADRAS CHILDREN ACT, 1920—</b>		
<i>see</i> Madras Act IV of 1920.		
<b>MARRIED WOMAN—</b>		
<i>see</i> Indian Succession Act, 1925.		
<b>MARRIED WOMAN'S PROPERTY—</b>		
<i>see</i> Act III of 1874.		

	ACT.	SECTION.
MERCHANT SHIPPING— <i>see</i> Act XXI of 1923.		
MINES— <i>see</i> Act IV of 1923.		
MOTOR SPIRIT (DUTIES)— <i>see</i> Act II of 1917.		
NATIVE CHRISTIAN ADMINISTRATION OF ESTATES— <i>see</i> Act VII of 1901.		
OBSCENE PUBLICATIONS ACT, 1925 . . . . .	VIII	I
International Convention— effect given to, <i>re</i> obscene publications . . . . . <i>see</i> Act XLV of 1860 Act V of 1898.	..	2, 3.
OPIUM— <i>see</i> Act XIII of 1857.		
OPIUM (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act XIII of 1857.	XXVII	1 (1)
ODDH COURTS ACT, 1925— <i>see</i> United Provinces Act IV of 1925.		
ODDH COURTS (SUPPLEMENTARY) ACT, 1925 . . . . . <i>see</i> Act XXVII of 1866. Act XXVIII of 1866. Act IV of 1869. Act XVIII of 1875. Act XVIII of 1879. Act IX of 1890. Act V of 1898. Act II of 1899. Act V of 1908. United Provinces Act IV of 1925.	XXXII	1 (1)
PAPER CURRENCY— <i>see</i> Act X of 1923.		
PARSI INTESTATE SUCCESSION— <i>see</i> Act XXI of 1865. Indian Succession Act, 1925.		
PENAL CODE— <i>see</i> Act XLV of 1860.		
PORTS— <i>see</i> Act XV of 1908.		
POSTAL RATES— <i>see</i> Indian Finance Act, 1925.		



	ACT.	SECTION.
POST OFFICE— <i>see</i> Act VI of 1898.		
POWER OF APPOINTMENT— <i>see</i> Indian Succession Act, 1925—Appointment.		
PRESIDENT'S SALARY— <i>see</i> Legislative Assembly (President's Salary) Act, 1925.		
PRISONS (AMENDMENT) ACT, 1925 . . . . . <i>see</i> Act IX of 1894.	XVII	1
PROBATE— <i>see</i> Indian Succession Act, 1925.		
PROBATE AND ADMINISTRATION— <i>see</i> Act V of 1881. Act VI of 1889. Act II of 1890. Act VIII of 1903. Indian Succession Act, 1925.		
PROVIDENT FUNDS— <i>see</i> Act IX of 1897. Act IV of 1903. Act XIV of 1919. Provident Funds Act, 1925.		
PROVIDENT FUNDS ACT, 1925 . . . . .	XIX	1 (1)
Deposit, compulsory—		
defined . . . . .	"	2
protection from attachment . . . . .	"	3
protection from claim by official assignee or receiver.	"	"
Local Government—		
power to apply Act to other Provident Funds . . . . .	"	8
Nominees—		
rights of, not affected by testamentary disposition or otherwise . . . . .	"	5
Provident Fund—		
application of Act to other . . . . .	"	8
contributory: power to make deductions to recover liabilities in case of dismissal or resignation . . . . .	"	6
defined . . . . .	"	2
Government, defined . . . . .	"	"
provisions <i>re</i> payment of money . . . . .	"	4
Railway, defined . . . . .	"	2
Repeals . . . . .	"	10 & Sch.
Savings . . . . .	"	9
Suit—		
bar of, for acts done in good faith under Act . . . . .	"	7

xxxiv INDEX TO THE ACTS OF THE INDIAN LEGISLATURE AND OF

	ACT.	SECTION.
PROVIDENT FUNDS (AMENDMENT) ACT, 1925 . . . . . <i>see Act XIX of 1925.</i>	XXVIII	1 (1)
PUNJAB ACT VIII OF 1925 (SIKH GURDWARAS)— section 12 amended . . . . .	XXIV	3
RAILWAYS— <i>see Act IX of 1890.</i>		
RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 1925 . . . . . <i>see Act XX of 1863.</i>	XXI	1
REPEALING AND AMENDING— <i>see Act X of 1914.</i> Act XVIII of 1919. Repealing and Amending Act, 1925.		
REPEALING AND AMENDING ACT, 1925 . . . . .	XXXVII	1
Savings . . . . .	"	4
<i>see Act V of 1872.</i> Act II of 1882. Act V of 1898. Act XIII of 1898. Act IX of 1910. Act IV of 1923. Act VIII of 1923. Act XXIX of 1923.		
RESIDUARY LEGATEE— <i>see Indian Succession Act, 1925.</i>		
SALT— <i>see Act XVI of 1879.</i> Bombay Act II of 1890. Madras Act IV of 1889. Indian Finance Act, 1925.		
SALT DUTY— <i>see Indian Finance Act, 1925.</i>		
SALT LAW— <i>see Salt Law Amendment Act, 1925.</i>		
SALT LAW AMENDMENT ACT, 1925 . . . . .	XXII	1 (1)
Savings . . . . .	"	3
<i>see Act XVI of 1879.</i> Bombay Act II of 1890. Madras Act IV of 1889.		
SHORT TITLES— <i>see Act XIV of 1897.</i>		

	ACT.	SECTION.
SIKH GURDWARAS (SUPPLEMENTARY) ACT, 1925 validation of certain provisions of Punjab Act VIII of 1925 see Punjab Act VIII of 1925.	XXIV	1 (1)
	"	2
SOLDIER— see Indian Soldiers (Litigation) Act, 1925.		
SOLDIERS LITIGATION— see Act IX of 1918. Act XII of 1924. Indian Soldiers (Litigation) Act, 1925.		
STAMPS— see Act II of 1899.		
SUCCESSION— see Act X of 1865. Indian Succession Act, 1925.		
SUCCESSION CERTIFICATE— see Act VII of 1889. Indian Succession Act, 1925.		
SUCCESSION CERTIFICATE Act, 1889— see Indian Succession Act, 1925.		
SUCCESSION (PROPERTY PROTECTION)— see Act XIX of 1841.		
SUPER-TAX— see Indian Finance Act, 1925.		
TARIFF— see Act VIII of 1894.		
TOTAL INCOME— see Indian Finance Act, 1925.		
TRANSFER OF PROPERTY— see Act IV of 1882. Transfer of Property (Amendment) Act, 1925.		
TRANSFER OF PROPERTY (AMENDMENT) ACT, 1925 see Act IV of 1882.	XXXVIII	1
TRANSPORT— see Cotton Transport. Transport of Salt.		
TRANSPORT OF SALT— see Act XVI of 1879.		
TRUSTS— see Act II of 1882.		

XXXVI INDEX TO THE ACTS OF THE INDIAN LEGISLATURE AND OF THE GOVERNOR GENERAL FOR THE YEAR 1925.

	ACT.	SECTION.
TRUSTEES— <i>see</i> Act XXVII of 1866.		
TRUSTEES' AND MORTGAGEES' POWERS— <i>see</i> Act XXVIII of 1866.		
UNITED PROVINCES ACT XII OF 1922 (BOARD OF REVENUE) PORTION IN SCHEDULE <i>re.</i> OPIUM ACT, 1857 (XIII OF 1857) REPEALED . . . . .	XXVII	4
UNITED PROVINCES ACT IV OF 1925 (OUDH COURTS)— supplemented . . . . .	XXXII	2 & Sch.
VALIDATION— <i>see</i> Madras, Bengal and Bombay Children (Supple- mentary) Act, 1925.		
WAR CONDITIONS— <i>see</i> Indian Soldiers (Litigation) Act, 1925.		
WILL— <i>see</i> Indian Succession Act, 1925.		
WORKMAN'S BREACH OF CONTRACT— <i>see</i> Act XIII of 1859. Act XII of 1920. Workman's Breach of Contract (Repealing) Act, 1925.		
WORKMAN'S BREACH OF CONTRACT (REPEALING) ACT, 1925 <i>see</i> Act XIII of 1859. Act XLV of 1860. Act XIV of 1897. Act XII of 1920. Act XXXVIII of 1920.	III	1 (1)
WORKMAN'S COMPENSATION— <i>see</i> Act VIII of 1923.		

# ACT No. I OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 9th  
February, 1925.)

An Act to amend the Indian Merchant Shipping Act, 1923, for  
a certain purpose.

XXI of 1923.

WHEREAS it is expedient to amend the Indian Merchant  
Shipping Act, 1923, for a certain purpose; It is hereby  
enacted as follows:—

1. This Act may be called the Indian Merchant Shipping short title.  
(Amendment) Act, 1925.

XXI of 1923.

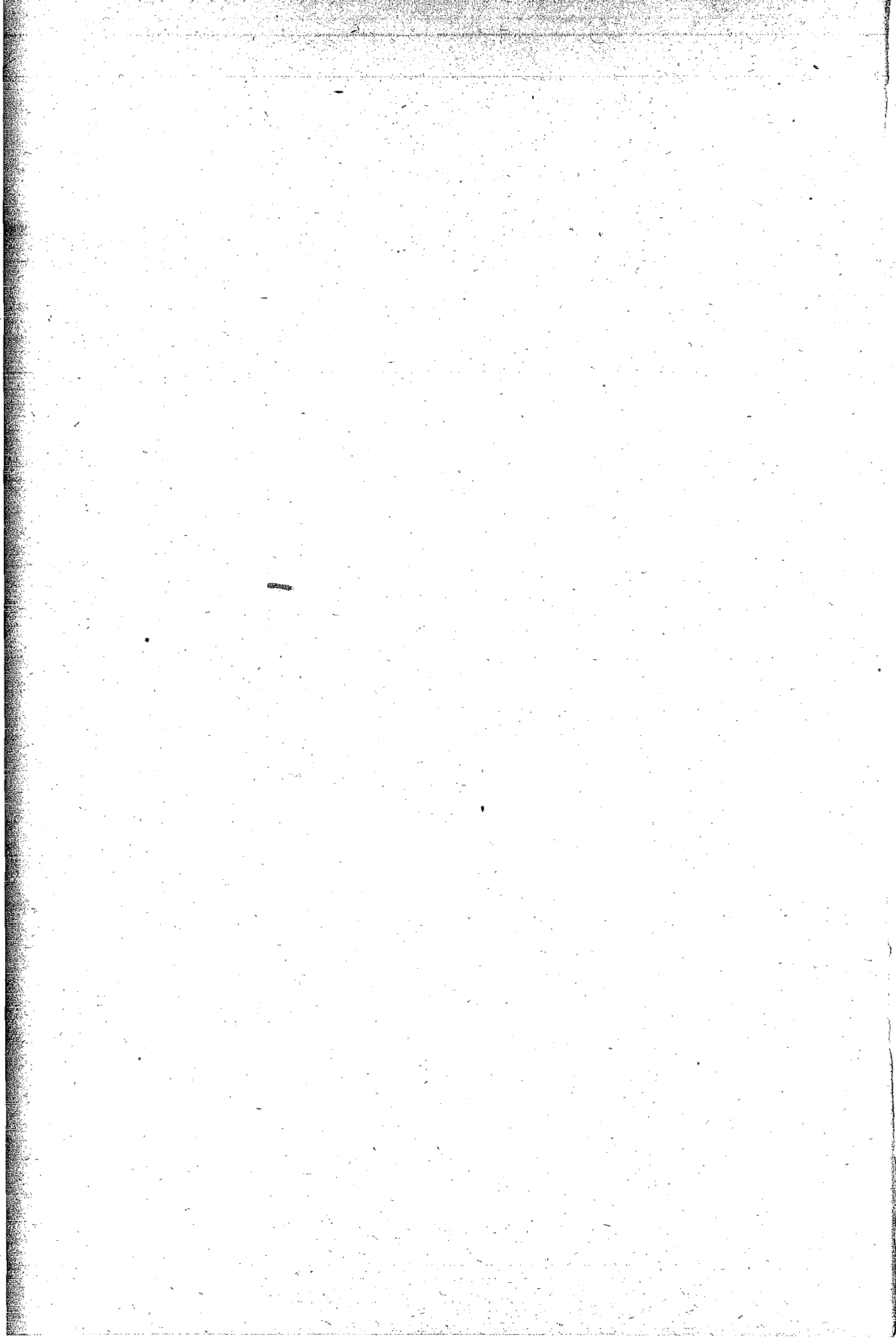
2. In sub-section (2) of section 245 of the Indian Merchant  
Shipping Act, 1923, after clause (b) the following clause shall be  
inserted, namely:—

Amendment of  
section 245, Act  
XXI of 1923.

“(c) the charging of fees for the grant of the certificate  
referred to in sub-section (4) of section 243, the  
amount of such fees and the manner in which they  
shall be recoverable.”

GALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Two Pence.]



# ACT No. II OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 11th  
February, 1925.)

## An Act further to amend the Indian Paper Currency Act, 1923.

X of 1923.

**W**HEREAS it is expedient further to amend the Indian Paper Currency Act, 1923, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Paper Currency (Amend Short title.  
ment) Act, 1925.

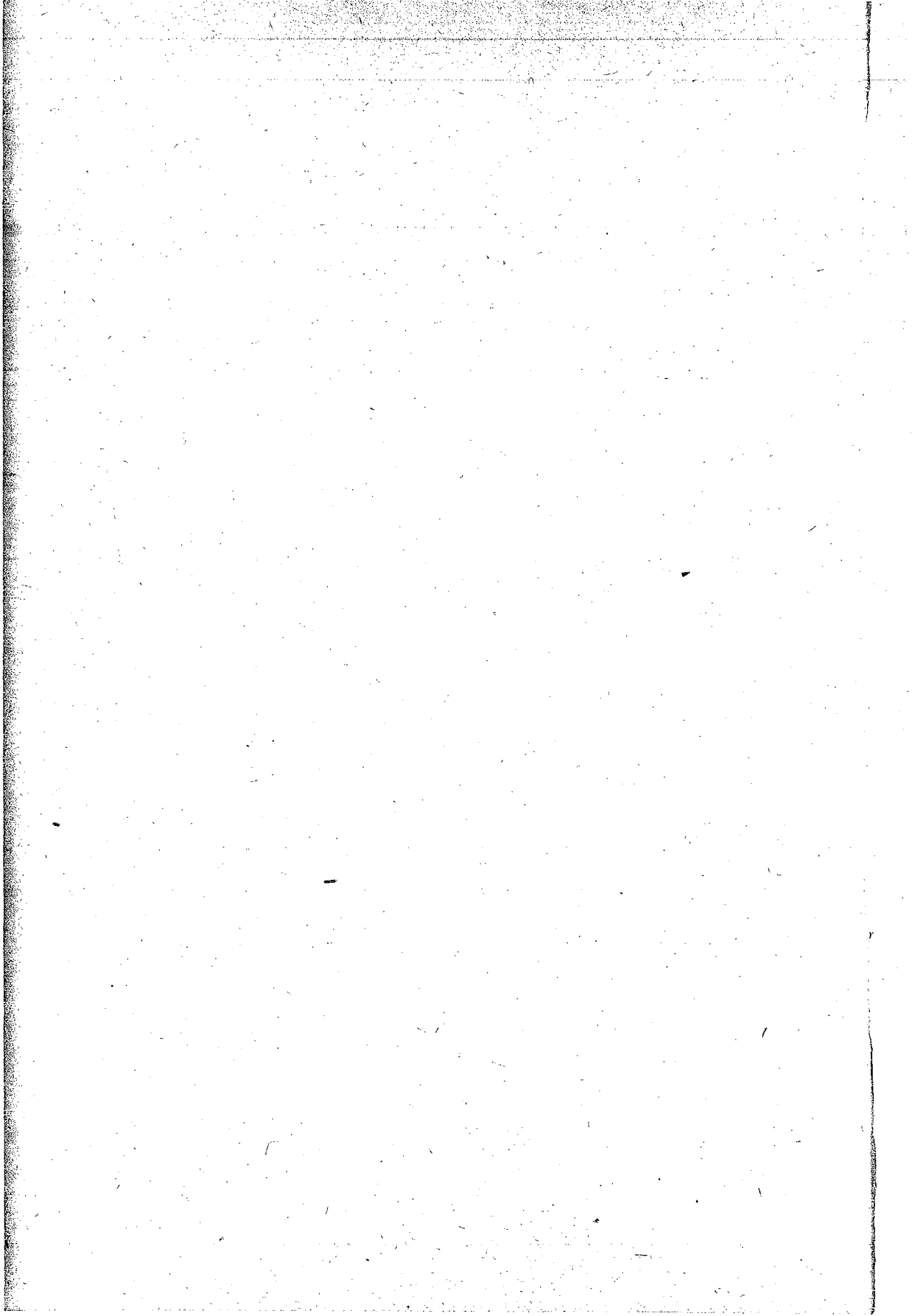
X of 1923.

2. In sub-section (4) of section 19 of the Indian Paper Amendment of  
Currency Act, 1923, for the words " eight hundred and fifty " section 19, Act  
the words " one thousand " shall be substituted, and to the same X of 1923.  
sub-section the following proviso shall be added, namely:—

" Provided that the value of created securities included in the said securities at the price at which they were purchased shall not exceed five hundred millions of rupees ".

CALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Two Pence.]





# ACT No. III OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 11th  
February, 1925.)

**An Act to repeal certain enactments whereby breaches of contract  
by labourers are made punishable under the criminal law.**

**W**HEREAS it is expedient to repeal certain enactments whereby breaches of contract by labourers are made punishable under the criminal law; It is hereby enacted as follows:—

1. (1) This Act may be called the Workmen's Breach of Contract (Repealing) Act, 1925. of Short title and commencement.

(2) It shall come into force on the first day of April, 1926.

2. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Short title.	Extent of repeal.
1859	XIII	The Workman's Breach of Contract Act, 1859.	The whole.
1860	XLV	The Indian Penal Code	Sections 490 and 492.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Workman's Breach of Contract Act, 1859.
1920	XII	The Workman's Breach of Contract (Amendment) Act, 1920.	The whole.
"	XXXVIII	The Devolution Act, 1920	So much of the First Schedule as relates to the Workman's Breach of Contract Act, 1859.

CALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Two Pence.]

1911

# ACT No. IV OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 26th February, 1925.)

An Act to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions.

WHEREAS it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Soldiers (Litigation) Act, 1925. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of April, 1925.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) " Court " means a Civil or Revenue Court;

(b) " Indian soldier " means any person subject to the Indian Army Act, 1911;

(c) " prescribed " means prescribed by rules made under this Act; and

(d) " proceeding " includes any suit, appeal or application.

3. For the purposes of this Act, an Indian soldier shall be deemed to be or, as the case may be, to have been serving— Circumstances in which an Indian soldier shall be deemed to be serving under special conditions.

(a) under special conditions—when he is or has been serving under war conditions, or overseas, or at any place in Persia, Tibet, Afghanistan, Kashmir, Nepal or China, or with any unit the headquarters of which are situated at any place in Chitral, Waziristan, the North-West Frontier Province or British Baluchistan which is more than fifty miles distant by road from the nearest railway station;

(b) under war conditions—when he is or has been, at any time during the continuance of any hostilities declared by the Governor General in Council by notification in the Gazette of India to constitute a state of war for the purposes of this Act or at any time during a period of six months thereafter,—

(i) serving out of India,

(ii) under

1

[Price One Anna or Three-half Pence.]

- (ii) under orders to proceed on field service,
  - (iii) serving with any unit which is for the time being mobilised, or
  - (iv) serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the Governor General in Council by notification in the Gazette of India to be service under war conditions; and
- (c) overseas—in relation to any place in British India, other than Aden, when he is or has been serving in Aden or in any place outside India (other than Ceylon) the journey between which and British India is ordinarily undertaken wholly or in part by sea, and, in relation to Aden, when he is or has been serving in any place other than Aden.

Particulars to be furnished in plaints, applications or appeals to Court.

4. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is an Indian soldier who is serving under special conditions, he shall state the fact in his plaint, application or appeal.

Power of Collector to intervene in case of unrepresented Indian soldier.

5. If any Collector has reason to believe that any Indian soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court.

Notice to be given in case of unrepresented Indian soldier.

6. If a Collector has certified under section 5, or if the Court has reason to believe, that an Indian soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority:

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

- (a) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or
- (b) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

Postponement of proceedings.

7. If, on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the

the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions, and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of the soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Court may proceed when no certificate received.

9. When any document purporting to be signed by the Commanding Officer of an Indian soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

Postponement of proceedings against Indian soldier on leave.

- (a) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or
- (b) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions,

the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to section 6, and shall, in any other case, be postponed in the manner provided in section 7.

10. (1) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst he was serving under war conditions or at any time after the 1st day of April, 1925, whilst he was serving under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the soldier, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly.

Power to set aside decrees and orders passed against an Indian soldier serving under war or special conditions.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions:

Provided that the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such applications.

(3) When

(3) When the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be.

Modification of law of limitation where Indian soldier serving under war or special conditions is a party.

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any other law for the time being IX of 1908, in force for any suit, appeal or application to any Court any party to which is or has been an Indian soldier, the time during which the soldier has been serving under war conditions since the 4th day of August, 1914, or under any special conditions since the 1st day of April, 1925, shall be excluded:

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.

Power of Court to refer question as to whether service was under war or other special conditions.

12. If any Court is in doubt whether, for the purposes of section 10 or section 11, any Indian soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.

Rule-making power.

13. The Local Government, after consulting the High Court, may, by notification in the local official Gazette, make rules to provide for all or any of the following matters, namely:—

- (a) the manner and form in which any notice or certificate under this Act shall be given;
- (b) the period for which proceedings or any class of proceedings shall be postponed under section 7;
- (c) the persons who shall be the prescribed authorities for the purposes of this Act;
- (d) any other matter which is to be or may be prescribed; and
- (e) generally, any matters incidental to the purposes of this Act.

Power to apply the provisions of the Act to other persons in the service of the Crown.

14. The Governor General in Council may, by notification in the Gazette of India, direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers.

Repeal of Act IX of 1918 and XII of 1924.

15. The Indian Soldiers (Litigation) Act, 1918, and the IX of 1918, Indian Soldiers Litigation (Amendment) Act, 1924, are hereby XII of 1924, repealed.

# ACT No. V OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 1st March, 1925.)

An Act further to amend the Indian Income-tax Act, 1922.

XI of 1922. **W**HEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing; It is hereby enacted as follows:—

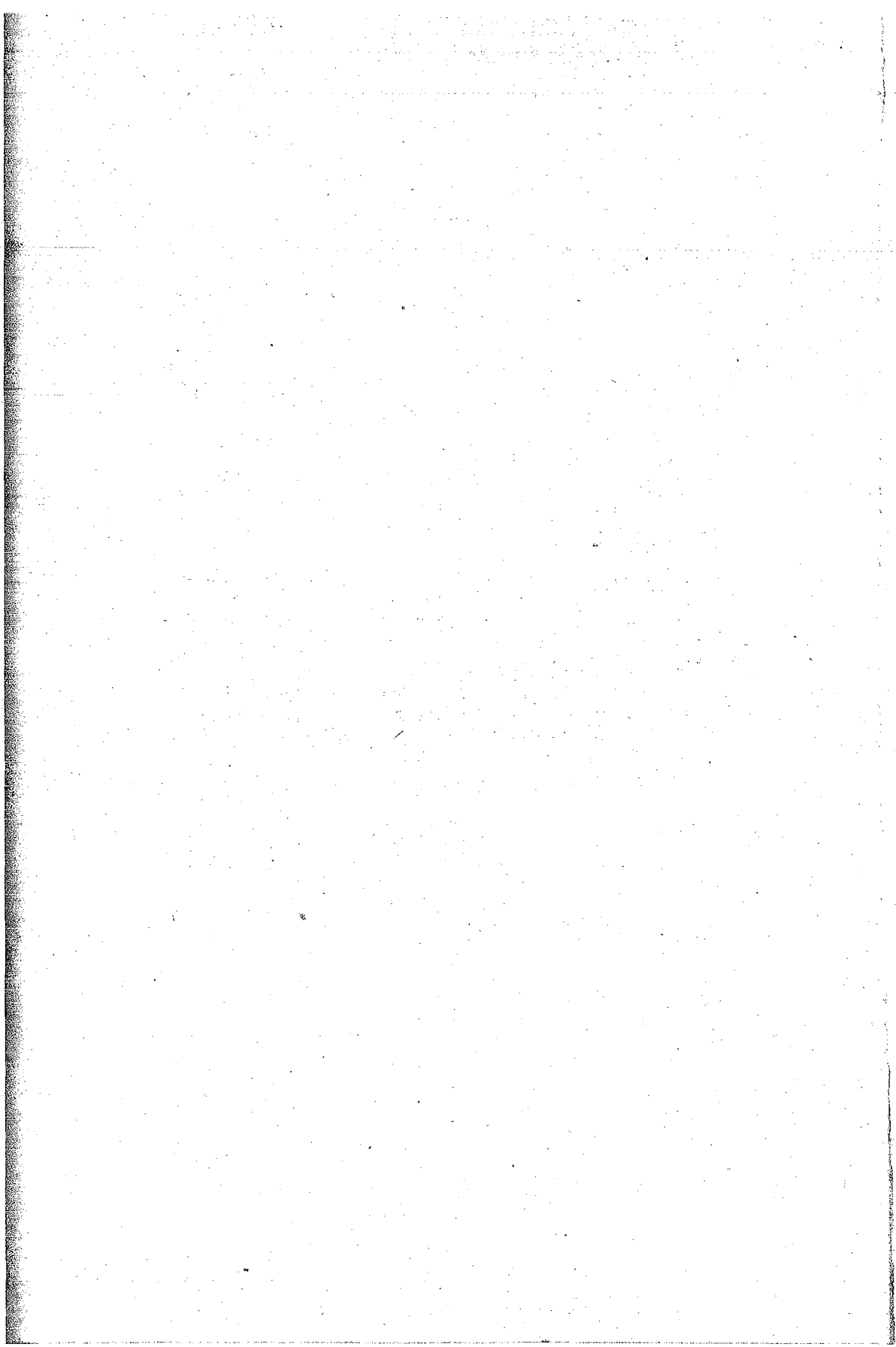
1. This Act may be called the Indian Income-tax (Amendment) Act, 1925. Short title.

XI of 1922. 2. To section 56 of the Indian Income-tax Act, 1922, the following proviso shall be added, namely:— Amendment of section 56, Act XI of 1922.

“ Provided that, in computing the total income of a member of a registered firm, where any change occurs in the constitution of the firm, the profits or gains of the firm during the previous year shall be deemed to have been received in that year by the members of the firm as constituted at the time of the making of the assessment to super-tax in proportion to their shares in the firm at that time.”

CALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Three-half Pence.]



2

2

2

2



# ACT No. VI OF 1925,

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 3rd March, 1925.)

## An Act to determine the salary of the President of the Legislative Assembly.

**W**HEREAS it is provided by sub-section (5) of section 63C of the Government of India Act that an elected President of the Legislative Assembly shall receive such salary as may be determined by Act of the Indian Legislature; It is hereby enacted as follows:—

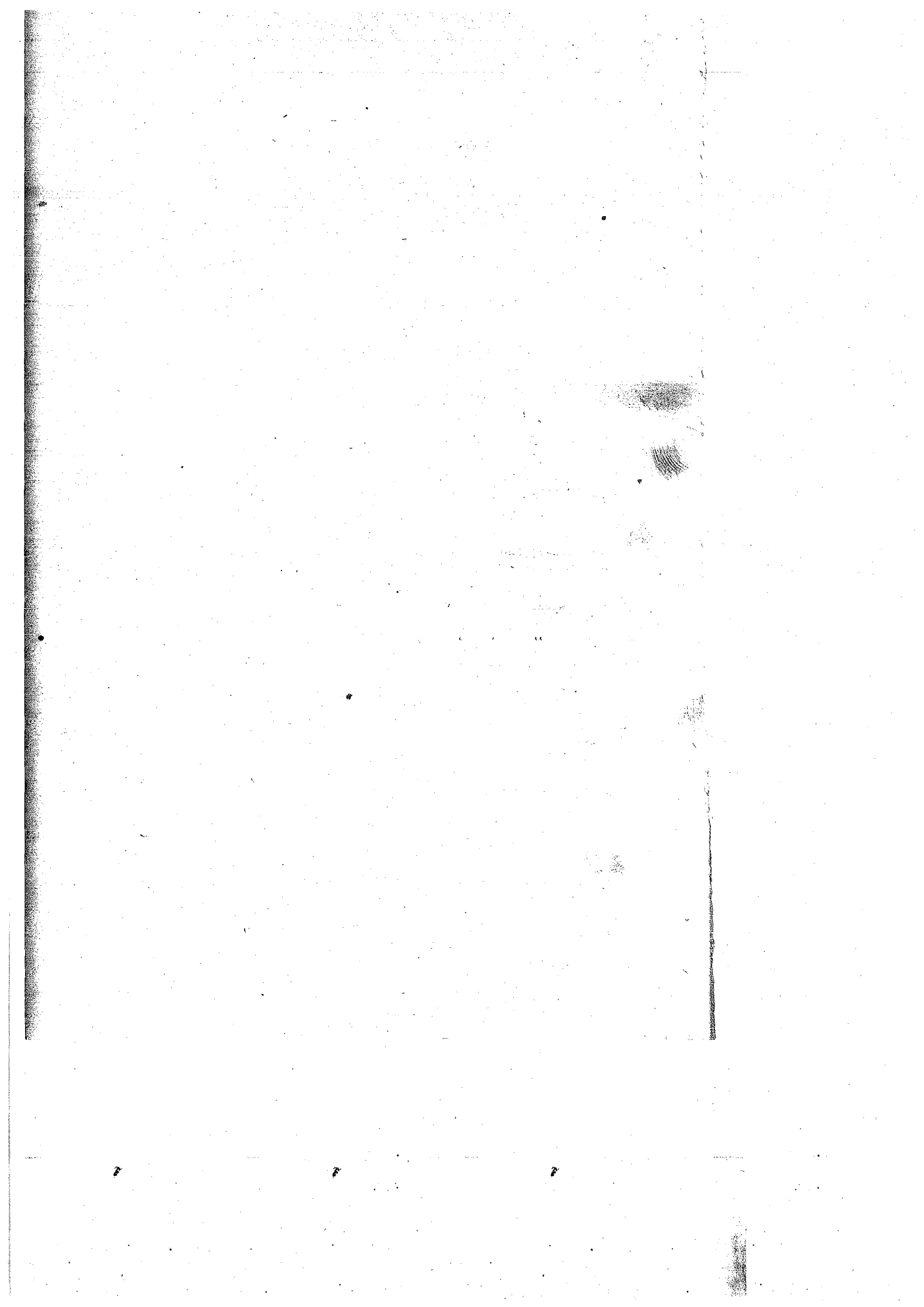
1. This Act may be called the Legislative Assembly (President's Salary) Act, 1925. Short title.

2. (1) There shall be paid to the elected President of the Legislative Assembly a salary calculated at the rate of four thousand rupees *per mensem*. Salary of elected President.

(2) The elected President of the Legislative Assembly shall not during his tenure of that office practise any profession or engage in any trade or undertake for remuneration any employment other than his duties as President of the Legislative Assembly.

CALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Three-half Pence.]



# ACT No. VII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 10th March, 1925.)

## An Act to amend the Cantonments Act, 1924.

II of 1924.

WHEREAS it is expedient to amend the Cantonments Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Cantonments (Amendment) Act, 1925. Short title.

II of 1924.

2. In section 2 of the Cantonments Act, 1924 (hereinafter referred to as the said Act),— Amendment of section 2, Act II of 1924.

(a) in clause (xii) for the words " Military Works officer " the words " officer of the Military Engineer Services " shall be substituted; and

(b) in clauses (xix) and (xxvi) the words " with the previous sanction of the Governor General in Council " shall be omitted.

3. In section 14 of the said Act,—

Amendment of section 14, Act II of 1924.

(a) in clause (e) of sub-section (1) after the word " nominated " the words " by name " shall be inserted;

(b) in clause (f) of the said sub-section for the word " appointed " the word " constituted " shall be substituted; and

(c) in sub-section (2) for the words " nomination or appointment " the words " or nomination " shall be substituted.

4. In section 28 of the said Act,—

Amendment of section 28, Act II of 1924.

(a) in sub-section (1) after the word " being " the words " a stipendiary Magistrate or " shall be inserted; and

(b) in clause (c) of sub-section (2) the words " stipendiary Magistrate or " shall be omitted.

5. After section 36 of the said Act the following section shall be inserted, namely:— Insertion of new section 36A in Act II of 1924.

"36A. Every officer or servant, permanent or temporary, of a Cantonment Authority shall be deemed to be a public servant within the meaning of the Indian Penal Code, and in the definition of ' Legal remuneration ' in section 161 of that Code the

Cantonment servant to be deemed a public servant.

XLV of 1960.

word

1

[Price One Anna or Three-half Pence.]

word 'Government' shall, for the purposes of this section, be deemed to include a Cantonment Authority".

6. After section 116 of the said Act the following section shall be inserted, namely:—

Insertion of new section 116A in Act II of 1924.

" 116A. A Cantonment Authority may, subject to any conditions imposed by the Governor General in Council, manage any property entrusted to its management by the Governor General in Council on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 280."

Power to manage property.

7. In section 126 of the said Act,—

Amendment of section 126, Act II of 1924.

(a) after the word " Authority " where it occurs for the first time, the words " in a ruinous state or " shall be inserted;

(b) after the word " enclosure " the words " a nuisance or " shall be inserted; and

(c) after the words " owner thereof " the words " either to remove the same or " shall be inserted.

8. In sub-section (2) of section 176 of the said Act, for the words " Commanding Officer of that cantonment " the words " Officer Commanding the station " shall be substituted.

Amendment of section 176, Act II of 1924.

9. In sections 218 and 233 of the said Act, for the words " Military Works," wherever they occur, the words " Military Engineer " shall be substituted.

Amendment of sections 218 and 233, Act II of 1924.

10. In sections 235 and 237 of the said Act, for the words " Commanding Officer of a cantonment " the words " Officer Commanding the station " shall be substituted.

Amendment of sections 235 and 237, Act II of 1924.

11. In section 272 of the said Act, for the words " Commanding Officer of a cantonment " the words " Officer Commanding a station " shall be substituted.

Amendment of section 272, Act II of 1924.

12. After clause (b) of sub-section (2) of section 280 of the said Act, the following clause shall be inserted, namely:—

Amendment of section 280, Act II of 1924.

" (bb) the allotment to a Cantonment Authority of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 116A; "

13. In Schedule V to the said Act, in the entry in the second column against section 176 for the words " Commanding Officer of cantonment " the words " Officer Commanding the station " shall be substituted.

Amendment of Schedule V, Act II of 1924.

14. In the said Act for the words " Commanding Officer of the cantonment ", wherever they occur, the words " Officer Commanding the station " shall be substituted.

Substitution of title " Officer Commanding the station."

# ACT No. VIII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 10th March, 1925.)

An Act to give effect to certain articles of the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications.

WHEREAS it is expedient to amend certain provisions of the Indian Penal Code and of the Code of Criminal Procedure, 1898, for the purpose of giving effect to the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications signed at Geneva on behalf of the Governor General in Council on the 12th day of September, 1923; It is hereby enacted as follows:—

1. This Act may be called the Obscene Publications Act, 1925.

2. For sections 292 and 293 of the Indian Penal Code the following sections shall be substituted, namely:—

“ 292. Whoever—

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or

that

1

[Price One Anna or Three-half Pence.]

v of 1880.  
of 1898.

v of 1880.

Substitution of  
new sections for  
sections 292 and  
293, Act XLV of  
1880.  
Sale, etc., of  
obscene books,  
etc.

that any such obscene object can be procured from or through any person, or

(e) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

*Exception.*—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used *bona fide* for religious purposes or any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

Sale, etc., of obscene objects to young person.

V of 1898.

3. (1) In sub-section (1) of section 98 of the Code of Criminal Procedure, 1898,—

Amendment of section 98, Act V of 1898.

(i) after the words " kept or deposited in any place " the following paragraph shall be inserted, namely:—

" or, if a District Magistrate, Sub-divisional Magistrate or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Indian Penal Code or that any such obscene objects are kept or deposited in any place;"

XLV of 1860.

(ii) in clause (c), after the word " materials " the words " or of any such obscene objects " shall be inserted;

(iii) in clause (d), after the word " materials " the words " or such obscene objects " shall be inserted; and

(iv) in clause (e), after the words " or materials," where they first occur, the words " or such obscene objects " shall be inserted, and after the words " or for forging " the following words shall be added, namely:—

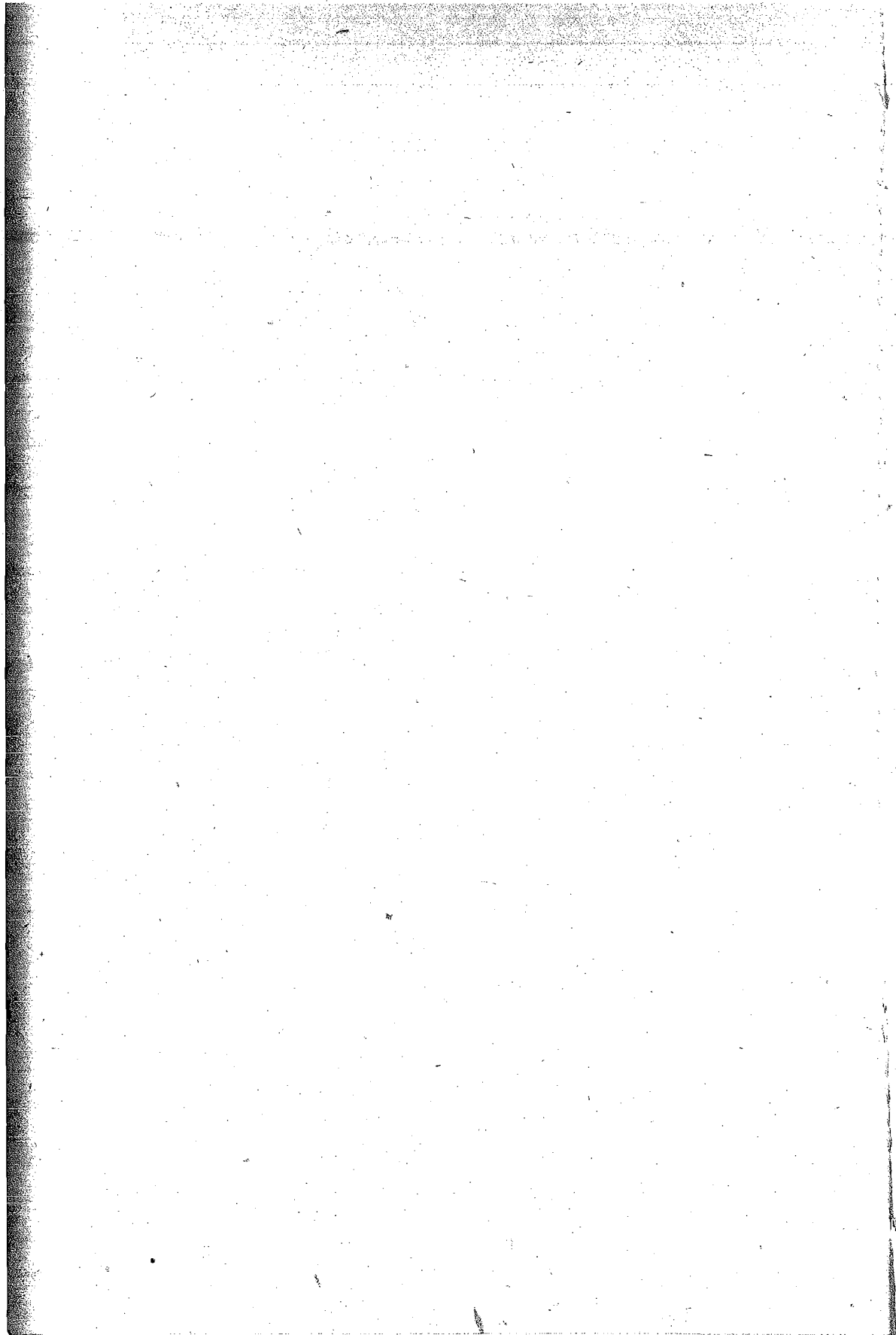
" or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported."

(2) In

(2) In the Second Schedule to the same Code,—

- (i) for the entries in column 8 against sections 292 and 293 the words "Presidency Magistrate, or Magistrate of the first class," shall be substituted;
- (ii) for the entry in column 2 against section 293 the words "Sale, etc., of obscene objects to young persons" shall be substituted; and
- (iii) for the entry in column 7 against the same section the words "Imprisonment of either description for 6 months, or fine, or both" shall be substituted.

(3) In the Fifth Schedule to the same Code, in Form IX, after the words "or seals, or coins" the words "or obscene objects" shall be inserted.





# ACT No. IX OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 14th March,  
1925.)

## An Act further to amend the Indian Ports Act, 1908.

WHEREAS it is expedient further to amend the Indian Ports Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Ports (Amendment) Act, 1925. Short title.

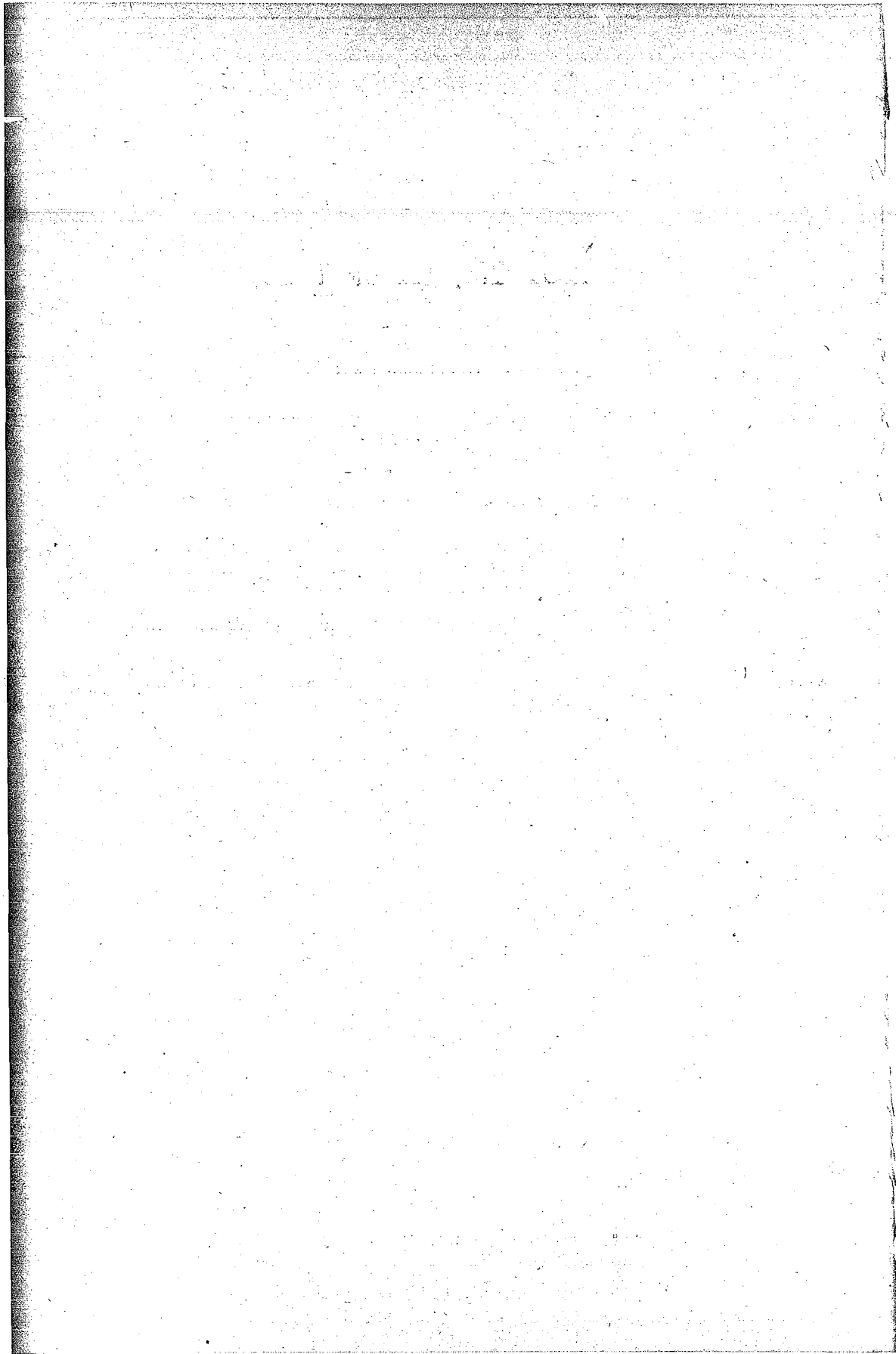
XV of 1908.

2. In sub-section (1) of section 6 of the Indian Ports Act, 1908, after clause (ee), the following clause shall be added, namely:— Amendment of section 6, Act XV of 1908.

“(eee) for regulating the bunkering of vessels with liquid fuel in any such port and the description of barges, pipe lines or tank vehicles to be employed in such bunkering;”

CALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Three-half Pence.]



# ACT No. X OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 18th March, 1925.)

## An Act to amend the Cantonments (House-Accommodation) Act, 1923.

VI of 1923. **W**HEREAS it is expedient to amend the Cantonments (House-Accommodation) Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Cantonments (House-Accommodation Amendment) Act, 1925. Short title.

VI of 1923. 2. In sub-section (1) of section 2 of the Cantonments (House-Accommodation) Act, 1923 (hereinafter referred to as the said Act),— Amendment of section 2, Act VI of 1923.

(a) in clause (b) for the word " Committee " the word " Board " shall be substituted;

(b) after clause (b) the following clause shall be inserted, namely:—

" (bb) ' Cantonment Board ' means a Cantonment Board constituted under the Cantonments Act, 1924; "

II of 1924.

(c) in clause (g) for the words " a Cantonment Magistrate " the words " an officer of the Cantonments Department " shall be substituted.

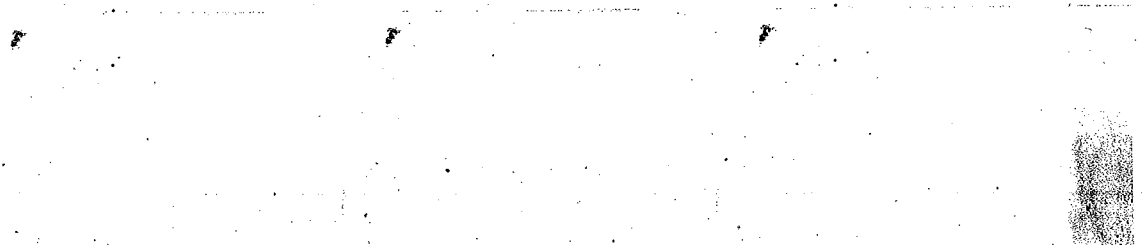
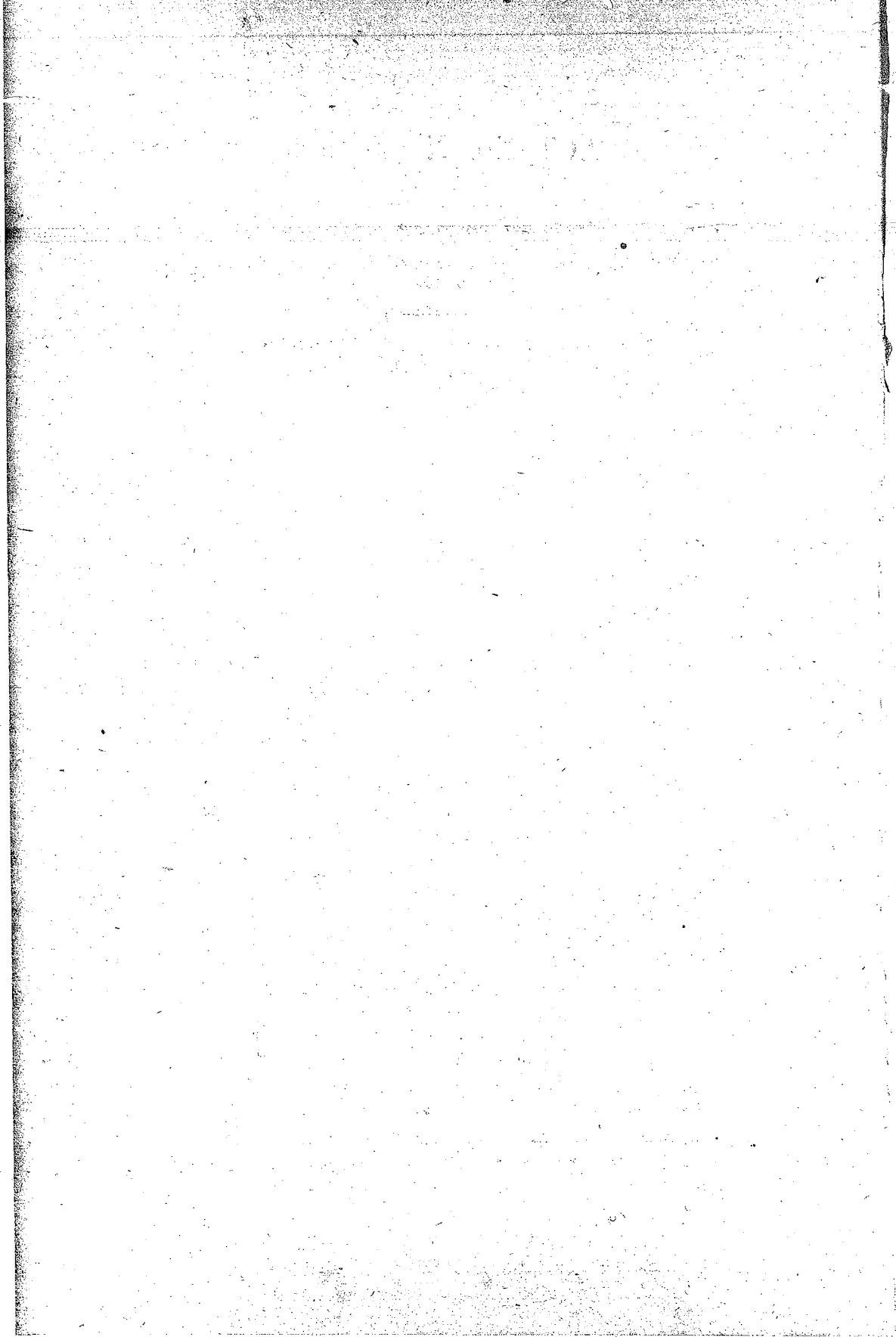
3. In section 17 and in clause (a) of sub-section (1) of section 22 of the said Act, for the words " Military Works " wherever they occur, the words " Military Engineer " shall be substituted. Amendment of sections 17 and 22, Act VI of 1923.

4. In section 34 of the said Act, for the words " under the Cantonments Act, 1910, or any rule made thereunder " the following shall be substituted, namely:— Amendment of section 34, Act VI of 1923.

" in accordance with a bye-law made under clause (29) of section 282 of the Cantonments Act, 1924 ":

5. In section 37 of the said Act, for the word " Committee " the word " Board " shall be substituted. Amendment of section 37, Act VI of 1923.

6. For the words " Commanding Officer of the Cantonment ", wherever they occur in the said Act, the words " Officer Commanding the station " shall be substituted. Substitution of title " Officer Commanding the Station ".



# ACT No. XI OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 18th March, 1925.)

An Act further to amend the Indian Merchant Shipping Act, 1923, for certain purposes.

XXI of 1923. **W**HEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Merchant Shipping Short title. (Second Amendment) Act, 1925.

XXI of 1923. 2. In section 203 of the Indian Merchant Shipping Act, Amendment of section 203, Act XXI of 1923. 1923 (hereinafter referred to as the said Act),—

(a) in sub-section (1), for the words " Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden and shall not leave ", the words " Any officer empowered by the Local Government in this behalf may, by order in writing, require any pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, to touch at Aden and not to leave " shall be substituted; and

(b) in sub-section (2), after the word " ship " the words " in respect of which an order has been made under this section " shall be inserted, and for the words " by this section " the words " under this section " shall be substituted.

3. In section 204 of the said Act, for the words " The authority at Aden empowered to grant the certificate required under section 203 ", the words " Where any pilgrim ship touches at Aden in compliance with an order made under section 203, the authority at Aden empowered to grant the certificate required under that section " shall be substituted. Amendment of section 204, Act XXI of 1923.

4. In

I

[Price One Anna or Three-half Pence.]

Amendment of section 205, Act XXI of 1923.

4. In section 205 of the said Act, in clause (a) after the word "shall" the words "if so required by an order under section 203" shall be inserted, and for the words and figures "by section 203" the words "under that section" shall be substituted.

Insertion of new section 208A in Act XXI of 1923.

5. After section 208 of the said Act the following section shall be inserted, namely:—

Conditions for securing return passages for pilgrims.

"208A. No pilgrim shall be received on board any pilgrim ship at any port or place in British India for conveyance in the lowest class available on the ship, unless he—

- (a) is in possession of a return ticket, or
- (b) has deposited with the prescribed person such sum for the purpose of defraying the cost of a return ticket as the Governor General in Council may specify by notification in the Gazette of India:

Provided that this prohibition shall not apply in the case of any such pilgrim who has made a declaration on oath or affirmation in such form as may be prescribed, before an authority appointed in this behalf by the Local Government, that he does not intend to return to India within three years after the date of declaration.

Amendment of section 209, Act XXI of 1923.

6. In section 209 of the said Act,—

(a) to sub-section (1) the following proviso shall be added, namely:—

"Provided that no pilgrim to whom the prohibition contained in section 208A applies shall be entitled to, or shall be provided with, a ticket other than a return ticket unless he has made the deposit required by that section"; and

(b) in sub-section (2), for the words "shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed" the following shall be substituted, namely:—

"shall, subject to any conditions or deductions which may be prescribed, be entitled to the refund of any passage-money which he may have paid, and of any deposit which he may have made in compliance with the provisions of section 208A; and if any pilgrim who has paid for a return ticket or made such deposit dies in the Hedjaz or on the voyage thereto, or does not return to British India before the expiration of one year from the date

on

on which he paid for the return ticket or made such deposit the person nominated by him in writing in the prescribed manner or, if no person has been so nominated, his legal representative or the pilgrim himself, as the case may be, shall, if the pilgrim was in possession of a return ticket, be entitled to the refund, subject as aforesaid, of half the passage-money paid by the pilgrim or, if the pilgrim had made a deposit, be entitled to the refund unconditionally of the whole of the deposit made by him."

7. After section 209 of the said Act the following section shall be inserted, namely:—

Insertion of  
new section  
209A in Act  
XXI of 1923.

"209A. (1) Port-clearance shall not be granted from any port in British India to any pilgrim ship unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond for the sum of ten thousand rupees, conditioned that, if any pilgrim who has been carried to the Hedjaz by that ship with a return ticket issued in British India within the previous eighteen months is owing to his inability to obtain accommodation on a ship for which the return ticket is available, detained at Jeddah for a longer period than twenty-five days from the day on which he presents his ticket to the British Consul at Jeddah, notifying his desire to embark for the return passage, the master, owner or agent aforesaid shall pay to the Local Government in respect of such pilgrim such sum not exceeding double the whole sum received by such master, owner or agent in respect of the return ticket as the Local Government claims as the cost of repatriating the pilgrim, together with a sum of one rupee for each day after the expiry of the twenty-five days aforesaid during which the pilgrim has been detained at Jeddah:

Cost of return  
journey of  
pilgrims on  
ships other  
than those for  
which return  
ticket is  
available.

Provided that, for the purpose of computing the said period of twenty-five days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war disturbance or any other cause not arising from any act or default of the master, owner or agent.

(2) A certificate of such detention purporting to be made and signed by the British Consul at Jeddah shall be received in evidence in any Court in British India without proof of the signature or of the official character of the person who has signed the same."

8. In

*Indian Merchant Shipping (Second Amendment).* [ACT XI, 1925.]

Amendment of  
section 213,  
Act XXI of  
1923.

8. In sub-section (1) of section 213 of the said Act,—

(a) after clause (o) the following clause shall be inserted, namely:—

“(oo) the manner in which deposits shall be made for the purposes of section 208A, and any matter in respect of which provision is, in the opinion of the Governor General in Council, necessary or expedient for the purpose of giving effect to the provisions of that section;”

(b) in clause (g), after the word “ passage-money ” the words “ and of deposits made under section 208A ” shall be inserted, and to the same clause after the words “ pilgrim ship ” the words “ and the refund of passage-money or deposits to the nominees and legal representatives of pilgrims who have died in the Hedjaz or on the voyage thereto, or to pilgrims who do not return to British India within the period provided in section 209 or to the nominees of such pilgrims and the manner in which persons shall be nominated for the purpose of entitling them to such refunds,” shall be added; and

(c) after clause (g) the following clause shall be inserted, namely:—

“(qq) the period after which unclaimed passage-money and deposits liable to be refunded shall lapse to Government, and the purposes to which sums so lapsing shall be applied.”



# ACT No. XII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 18th March, 1925.)

An Act to provide for the better regulation of cotton ginning and cotton pressing factories.

WHEREAS it is expedient to provide for the better regulation of cotton ginning and cotton pressing factories; It is hereby enacted as follows:—

1. (1) This Act may be called the Cotton Ginning and Pressing Factories Act, 1925. Short title, extent and commencement.

(2) It extends to the whole of British India (except Burma), including British Baluchistan and the Sonthal Parganas.

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

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) " bale " means any pressed package of cotton of whatever size or density;

(b) " cotton " means ginned or unginned cotton, or cotton waste;

(c) " cotton ginning factory " means any place where cotton is ginned or where cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or of electrical power;

(d) " cotton pressing factory " means any factory as defined in the Indian Factories Act, 1911, in which cotton is pressed into bales;

(e) " cotton waste " means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste;

(f) " Indian

[Price One Anna or Three-half Pence.]

- (f) "Indian Central Cotton Committee" means the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923, and includes any sub-committee appointed by it to perform any function of the Indian Central Cotton Committee under this Act; and
- (g) "occupier" includes a managing agent or other person authorised to represent the occupier;
- (h) "prescribed" means prescribed by or under rules made under this Act.

Maintenance of registers.

3. (1) The owner of every cotton ginning factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a ginning register containing a record of all cotton ginned in the factory and of the names of the persons for whom and the dates on which the cotton has been ginned and of the amount ginned for each person.

(2) The owner of every cotton pressing factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a press register containing a daily record of the number of bales pressed in the factory, the serial number of each bale, and the name of the person for whom it has been pressed.

(3) The owner or the person in charge of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required to do so by any person appointed by the Local Government in this behalf, and the owner or person in charge of any cotton pressing factory shall be bound to furnish to the Indian Central Cotton Committee, if so required by it in writing, a copy, certified as correct by the owner or person in charge of the factory, of the entry in any press register maintained at the factory relating to any specified bale.

(4) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(5) If—

- (a) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose, or
- (b) any entry in any such register is proved to be false in any material particular, or
- (c) any such register is destroyed before the expiration of the period referred to in sub-section (4),

the

the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

(6) If the owner or the person in charge of any factory fails to produce any register, or to furnish a certified copy of any entry, when required to do so under sub-section (3), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

4. (1) The owner of every cotton pressing factory shall cause every bale pressed in the factory to be marked in such manner as may be prescribed, before it is removed from the press-house, with a serial number and with the mark prescribed for the factory. Marking of bales.

(2) If any bale is removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

5. (1) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week. Returns.

(2) The Local Government shall compile from the weekly returns, and shall publish in such manner as the Governor General in Council may direct, a statement showing the total number of bales pressed in the province during the week and from the commencement of the season to the end of the week, to which the returns relate:

Provided that the number of bales pressed in any individual factory shall not be published.

(3) If default is made in submitting any return as required by sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees.

(4) Where the owner of a cotton pressing factory has notified to the prescribed authority that the work of pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) until such work has been resumed.

*Explanation*

*Explanation.*—In this section "season" means the period notified in this behalf by the Local Government in the local official Gazette.

Scales and weights.

6. (1) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights, if any, prescribed by the Local Government as standard for the district in which the factory is situated.

(2) If in any factory any scale or weight is used in contravention of the provisions of sub-section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub-section, to five hundred rupees.

Liability of lessee as owner.

7. (1) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less than one month, in the case of a cotton ginning factory or three months, in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be maintained from that date and for that period, and for the purposes of sections 4, 5 and 6.

(2) On the termination of the lease the lessee shall hand over to the lessor the registers maintained under section 3, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(3) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

Liability on transfer of ownership.

8. (1) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(2) If default is made in handing over any register or making any report as required by sub-section (1), the transferor or the transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

9. (1) In

9. (1) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act— Structural requirements for factories.

- (a) gin-houses shall be provided with separate entrances and exits for the bringing in of unginned and the taking out of ginned cotton respectively, and
- (b) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority :

Provided that nothing in this sub-section shall apply to any factory in which only roller gins are used where the number of such gins is not more than four.

(2) Within such period after the commencement of this Act as may be prescribed, the owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press house to be paved or provided with other suitable flooring to the satisfaction of the prescribed authority.

(3) If the owner of any factory fails to comply with any provision of this section which is applicable to the factory, he shall be punished with fine which may extend to one hundred rupees.

(4) (a) Where the owner of a factory has been convicted under sub-section (3), the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date, as in the opinion of the said authority are necessary to secure compliance with the provisions of sub-section (1) or sub-section (2), as the case may be.

(b) Where the alterations are not made in accordance with the order served under clause (a) of this sub-section, the prescribed authority may serve on the owner and on the occupier, if any, of the factory an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (a) of this sub-section and the owner and the occupier, if any, shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause.

10. Where the person guilty of an offence under this Act is a company, every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment. Liability of officers of a company.

11. (1) No

Cognizance of offences.

11. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government.

(2) No offence punishable under this Act shall be tried by any Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class.

Power of the Governor General in Council to make rules.

12. The Governor General in Council may make rules to provide for—

- (a) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales;
- (b) the manner in which bales shall be marked; and
- (c) the manner in which the weekly statements referred to in section 5 shall be published.

Power of the Local Government to make rules.

13. The Local Government may, by notification in the local official Gazette, make rules consistent with this Act to provide for all or any of the following matters, namely:—

- (a) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers;
- (b) the appointment of the authority to whom and the time within which the returns required by section 5 shall be made;
- (c) the weights and scales to be used in cotton ginning and cotton pressing factories in any district in the province, and the inspection of the same;
- (d) the appointment of authorities for the purposes of sections 7, 8 and 9;
- (e) the manner of service of orders made under section 9;
- (f) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the Local Government;
- (g) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act.

Power to reject unmarked bales in fulfilment of contracts.

14. After the expiration of one year from the commencement of this Act, any person who has made a contract for the purchase of baled cotton may require that no bales other than

bales

1925.] *Cotton Ginning and Pressing Factories.*

bales marked in accordance with section 4 shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract:

Provided that nothing in this section shall apply to a contract for the sale and delivery of cotton grown before, or less than one year after, the commencement of this Act.

15. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act. Protection for acts done under Act.

CALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.



# ACT No. XIII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th March, 1925.)

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to remit or vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to reduce the import and excise duties on motor spirit, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to remit or vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to reduce the import and excise duties on motor spirit, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Finance Act, 1925.

Short title,  
extent and  
duration.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 2 and 4 shall remain in force only up to the 31st day of March, 1926.

2. (1) The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1925, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

Fixation of  
salt duty.

(2) With effect from the first day of April, 1925, section 2 of the Indian Finance Act, 1924, is hereby repealed.

3. With effect from the first day of April, 1925, the amendments specified in the First Schedule to this Act shall be made in Schedule II to the Indian Tariff Act, 1894.

Amendment of  
Act VIII of  
1894.

4. With

1

[Price One Anna or Three-half Pence.]

Postal rates.

4. With effect from the first day of April, 1925, the Schedule contained in the Second Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to VI of 1898. that Act.

Amendment of Act II of 1917.

5. With effect from the first day of April, 1925, the following amendments shall be made in the Motor Spirit (Duties) Act, II of 1917, 1917, namely:—

(a) in sub-section (1) of section 3 for the words " six annas " the words " four annas " shall be substituted;

(b) section 6 shall be omitted.

Amendment of Act X of 1923.

6. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923, for the figures " 1925 " the figures " 1926 " X of 1923. shall be substituted.

Income-tax and super-tax.

7. (1) Income-tax for the year beginning on the first day of April, 1925, shall be charged at the rates specified in Part I of the Third Schedule.

(2) The rates of super-tax for the year beginning on the first day of April, 1925, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of XI of 1922. the Third Schedule.

(3) For the purposes of the Third Schedule, " total income " means total income as determined, for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

XI of 1922.

#### SCHEDULE I.

Amendments to be made in Schedule II to the Indian Tariff Act, 1894.

[See section 3.]

1. After Item No. 1 the following item shall be inserted, namely:—

" A | GRAIN and PULSE, all sorts, including broken grains and pulse, but excluding flour (see No. 68)."

2. In Item No. 40, the words " and MOTOR SPIRIT ", where they first occur in the entry in the second column, and the NOTE to that entry shall be omitted.

3. After Item No. 40 the following item shall be inserted, namely:—  
" 40A | MOTOR SPIRIT . | Imperial gallon . | Four annas."

4. Item No. 47 and the Heading thereto shall be omitted.

5. In Item No. 51, after the figures " 15, 16 " the figures and letter " 51B " shall be inserted.

6. After Item No. 51A the following item shall be inserted, namely:—  
" 51B | HEALDS, HEALD CORDS, HEALD KNITTING NEEDLES, REEDS and SHUTTLES."

7. In Item No. 75, after the figures " 40 " the figures and letter " 40A " shall be inserted.

8. In Item No. 96, for the word and figures " and 18 " the figures and word " 18 and 51B " shall be substituted.

#### SCHEDULE II.

## SCHEDULE II.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 4.]

## "THE FIRST SCHEDULE.

## INLAND POSTAGE RATES.

[See section 7.]

*Letters.*

For a weight not exceeding two and a half tolas . . . . .	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas . . . . .	One anna.

*Postcards.*

Single . . . . .	Half an anna.
Reply . . . . .	One anna.

*Book, Pattern and Sample Packets.*

For every five tolas or fraction thereof . . . . .	Half an anna.
--	---------------

*Registered Newspapers.*

For a weight not exceeding eight tolas . . . . .	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas . . . . .	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas . . . . .	Half an anna.

*Parcels.*

For a weight not exceeding twenty tolas . . . . .	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas . . . . .	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas . . . . .	Four annas."

## SCHEDULE III.

[See section 7.]

## PART I.

*Rates of Income-tax.*

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is less than Rs. 2,000 . . . . .	Nil.
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000 . . . . .	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000 . . . . .	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000 . . . . .	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000 . . . . .	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000 . . . . .	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards . . . . .	One anna and six pies in the rupee.
B. In the case of every company and registered firm, whatever its total income . . . . .	One anna and six pies in the rupee.

## PART II.

## Schedule III.

## PART II.

## Rates of Super-tax.

In respect of the excess over fifty thousand rupees of total income—	Rate.
(1) in the case of every company . . . . .	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty-five thousand rupees of the excess . . . . .	<i>Nil.</i>
(ii) for every rupee of the next twenty-five thousand rupees of such excess . . . . .	One anna in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess . . . . .	One anna in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the second fifty thousand rupees of such excess . . . . .	One and a half annas in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess . . . . .	Two annas in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess . . . . .	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess . . . . .	Three annas in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess . . . . .	Three and a half annas in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess . . . . .	Four annas in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess . . . . .	Four and a half annas in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess . . . . .	Five annas in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess . . . . .	Five and a half annas in the rupee.
(x) for every rupee of the remainder of the excess . . . . .	Six annas in the rupee.

# ACT No. XIV OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th March, 1925.)

An Act further to amend the Indian Tariff Act, 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1925. Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint, and different dates may be appointed for different items in the Schedule.

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act. Amendment of the Second Schedule, Act VIII of 1894

## THE SCHEDULE.

(See section 2.)

1. In Item No. 9, after the words "kainit salts" the words "carbo lime, urea" shall be inserted.
2. After Item No. 10, the following item shall be inserted, namely:—  
"10-A. | Rubber, raw".
3. After Item No. 14, the following item shall be inserted, namely:—  
"14-A. | Sulphur".
4. In Item No. 15,—
  - (i) for the word "seed-crushers" the words "seed and corn crushers" shall be substituted;
  - (ii) after the word "hay-tedders" the words "potato diggers, latex spouts, spraying machines" shall be inserted; and after the word "implements" where it occurs for the second and third times the word "machines" shall be inserted.
5. After Item No. 21, the following item shall be inserted, namely:—  
"21-A. | Postage stamps, whether used or unused".
6. In Item No. 22, after the words "used gunny bags" the words "or cloth" shall be inserted.

7. For  
1

[Price One Anna or Three-half Pence.]

(The Schedule.)

7. For Item No. 34 the following item shall be substituted, namely:—

		Rs. A
"34.	Sugar, excluding confectionery (see No. 124)—	
	(1) Sugar, crystallised or soft 23 Dutch Standard and above	cwt. 4 8
	(2) Sugar, crystallised or soft inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard	cwt. 4 0
	(3) Sugar, below 8 Dutch Standard, molasses and sugar candy	<i>ad valorem</i> 25 per cent."

8. In Item No. 37, the words "and Cigarettes" shall be omitted.

9. After Item No. 37, the following item shall be inserted, namely:—

		Rs. A.
"37-A.	Cigarettes of value—	
	(a) not exceeding Rs. 10-8 per thousand.	Thousand. 7 0
	(b) exceeding Rs. 10-8 per thousand.	Thousand. 10 8"

NOTE.—For the purposes of this item, 'value' means real value as defined in section 30 of the Sea Customs Act, 1878, provided that the amount to be deducted on account of duties payable on importation to determine the real value in accordance with the provisions of clause (a) of the said section shall be Rs. 7 per thousand.

10. After Item No. 45, the following item shall be inserted, namely:—

"45-A.	Silk mixtures that is to say,	
	(a) fabrics composed in part of some other textile than silk and in which any portion either of the warp or of the weft but not of both is silk;	<i>Ad valorem.</i> 20 per cent.
	(b) fabrics not being silk on which silk is superimposed such as embroidered fabrics;	
(c) articles made from such fabrics and not otherwise specified (see No. 100-A).		

11. In Item No. 53, the word "and" shall be omitted, and after the words "aeroplane engine parts", the words "and rubber tyres and tubes used exclusively for aeroplanes" shall be added.

12. (i) In Item No. 61, the words "including discs and circles" shall be omitted; and after the words "sheets and plates, all sorts," the words and brackets "(including discs and circles)" shall be inserted; and after the figures "148" the letter and figures "148-A" shall be inserted.

(ii) To Item No. 61, the following shall be added, namely:—

"IRON or STEEL designed for the reinforcing of concrete, not otherwise specified (see Nos. 144 and 161)

IRON or STEEL, expanded metal".

13. In Item No. 62, the words "STEEL expanded metal" shall be omitted.

14. In Item No. 63, after the words "brake gear" the words "shunting skids" shall be inserted, and after the word "traversers" the words "rail removers, scooters" shall be inserted.

15. In

## (The Schedule.)

15. In Item No. 85, after the word "silk" the words "or silk mixtures" shall be inserted, and for the word and figures "No. 134" the words, figures and letter "Nos. 100-A and 134" shall be substituted.

16. To Item No. 99, the following shall be added, namely:—

"and postage stamps, whether used or unused (see No. 21-A)".

17. In Item No. 100, after the words "used gunny bags" the words "or cloth" shall be inserted.

18. After Item No. 100, the following item shall be inserted, namely:—

"100-A. Silk goods used or required for medical purposes, namely:—

Silk ligatures; elastic silk hosiery, elbow pieces, thigh pieces, knee caps, leggings, socks, anklets, stockings, suspensory bandages, silk abdominal belts, silkweb catheter tubes, and oiled silk".

19. After Item No. 106, the following item shall be inserted, namely:—

"106-A. Fireworks specially prepared as danger or distress lights for the use of ships".

20. In Item No. 115, for the word and figures "No. 139" the words and figures "Nos. 53 and 139" shall be substituted.

21. To Item No. 134, the following shall be added, namely:—

"not otherwise specified (see Nos. 45-A and 100-A)".

22. To Item No. 135, the following shall be added, namely:—

"not otherwise specified (see No. 106-A)".

23. After Item No. 148, the following item shall be inserted, namely:—

"148-A. IRON or STEEL discs and circles cut from plates or sheets of the kind specified under Nos. 147 and 148:—

galvanised . . . . .	Ton Rs. 45.
----------------------	-------------

not galvanised . . . . .	Ton Rs. 30".
--------------------------	--------------

CALCUTTA : GOVERNMENT OF INDIA : CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.



# ACT No. XV OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th March, 1925.)

An Act further to amend the Indian Stamp Act, 1899.

of 1899. **W**HEREAS it is expedient further to amend the Indian Stamp Act, 1899, for the purpose hereinafter appearing: It is hereby enacted as follows:—

1. This Act may be called the Indian Stamp (Amendment) short title, Act, 1925.

of 1899. 2. In Article No. 47 in Schedule I to the Indian Stamp Act, 1899, after Division C, the following Division shall be inserted, Amendment of Schedule I, Act 11 of 1899, namely:—

‘CC.—INSURANCE BY WAY OF INDEMNITY against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen’s Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium . . . . . One anna.’

CALCUTTA : GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH  
PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Three-half Pence.]

# ACT No. XVI OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 25th March, 1925.)

An Act further to amend the Indian Income-tax Act, 1922.

1922. **W**HEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Income-tax (Second Amendment) Act, 1925. Short title.

1922. 2. In section 18 of the Indian Income-tax Act, 1922, after sub-section (2) the following sub-section shall be inserted, Amendment of section 18, Act XI of 1922. namely:—

“(2A.) Notwithstanding anything hereinbefore contained, for the purpose of making the deduction under sub-section (2), there shall be included in the amount payable any income chargeable under the head ‘Salaries’ which is payable to the assessee out of India by or on behalf of Government, and the value in rupees of such income shall be calculated at the prescribed rate of exchange.”

CALCUTTA: GOVERNMENT OF INDIA CENTRAL PUBLICATION BRANCH

PRINTED AT THE GOVERNMENT OF INDIA PRESS, DELHI.

[Price One Anna or Three-half Pence.]

# ACT No. XVII of 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 28th March, 1925.)

## An Act to amend the Prisons Act, 1894.

IX of 1894.  
**W**HEREAS it is expedient to amend the Prisons Act, 1894, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Prisons (Amendment) Act, short title, 1925.

IX of 1894.  
2. In section 46 of the Prisons Act, 1894 (hereinafter referred to as the said Act),—

Amendment of section 46, Act IX of 1894.

(a) to clause (2) after the word "form" the following words shall be added, namely:—

"for such period as may be prescribed by rules made by the Governor General in Council";

(b) in clause (8) for the word "six" the word "three" shall be substituted;

(c) clause (11) is hereby repealed;

(d) in clause (12) for the word "solitary" the word "cellular" shall be substituted; and the words "as defined in clause (11)" shall be omitted; and

(e) clauses (12) and (13) shall be re-numbered, respectively, clauses (11) and (12).

3. (1) Section 47 of the said Act shall be re-numbered sub-section (1) of section 47.

Amendment of section 47, Act IX of 1894.

(2) In the said sub-section—

(a) in exception (2) for the word "solitary" the word "cellular" shall be substituted;

(b) for exception (3) the following exception shall be substituted, namely:—

"(3) cellular confinement shall not be combined with separate confinement so as to prolong the total period of seclusion to which the prisoner shall be liable;"

(c) after

1

[Price One Anna or Three-half Pence.]

*Prisons (Amendment).* [ACT XVII, 1925.]

(c) after exception (4) the following exception shall be added, namely:—

“(5) No punishment shall be combined with any other punishment in contravention of rules made by the Governor General in Council.”

(3) To the said section the following sub-section shall be added, namely:—

“(2) No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.”

# ACT No. XVIII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 28th March, 1925.)

## An Act further to amend the Indian Cotton Cess Act, 1923.

**W**HEREAS it is expedient further to amend the Indian Cotton Cess Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Cotton Cess (Amendment) Act, 1925.

2. In section 8 of the Indian Cotton Cess Act, 1923, for sub-section (2) the following sub-sections shall be substituted, namely:—

“(2) In respect of cotton exported by land on which the cess is leviable—

(a) where the cotton is exported to any territory which is foreign territory as defined in the Land Customs Act, 1924, the cess shall be assessed by such authorities and in such manner as may be prescribed, and shall, subject to the provisions of this Act and of any rules made thereunder, for all or any of the purposes of the Land Customs Act, 1924, be deemed to be a duty of land customs leviable under section 5 of the Indian Tariff Act, 1894; and

(b) in any other case, the cess shall be assessed and levied by such authorities and in such manner as may be prescribed.

(3) The Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, may make rules providing, on such conditions as may be specified in the rules, for—

(a) the refund of the cess levied where cotton is exported by land and subsequently imported into India; and

(b) the export by land, without payment of the cess, of cotton which is subsequently to be imported into India.”

[Price One Anna or Three-half Pence.]

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE

FOR THE YEAR ENDING 31st MARCH 1917

IN ACCORDANCE WITH SECTION 10 OF THE LAND ACT, 1909

BY THE COMMISSIONER OF THE GENERAL LAND OFFICE

LONDON: HER MAJESTY'S STATIONERY OFFICE, 1917

PRINTED BY THE GOVERNMENT PRINTING OFFICE

BY THE COMMISSIONER OF THE GENERAL LAND OFFICE

FOR THE YEAR ENDING 31st MARCH 1917

IN ACCORDANCE WITH SECTION 10 OF THE LAND ACT, 1909

BY THE COMMISSIONER OF THE GENERAL LAND OFFICE

LONDON: HER MAJESTY'S STATIONERY OFFICE, 1917

PRINTED BY THE GOVERNMENT PRINTING OFFICE

BY THE COMMISSIONER OF THE GENERAL LAND OFFICE

FOR THE YEAR ENDING 31st MARCH 1917

IN ACCORDANCE WITH SECTION 10 OF THE LAND ACT, 1909

BY THE COMMISSIONER OF THE GENERAL LAND OFFICE

LONDON: HER MAJESTY'S STATIONERY OFFICE, 1917

PRINTED BY THE GOVERNMENT PRINTING OFFICE

# ACT No. XIX OF 1925.

[As amended by Act No. 28 of 1925.]

PASSED BY THE INDIAN LEGISLATURE.

(Received the assent of the Governor General on the 27th August, 1925.)

## An Act to amend and consolidate the law relating to Government and other Provident Funds.

WHEREAS it is expedient to amend and consolidate the law relating to Government and other Provident Funds; It is hereby enacted as follows:—

1. (1) This Act may be called the Provident Funds Act, 1925. Short title, extent and comment.

(2) It extends to the whole of British India, including British Baluchistan.

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

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "compulsory deposit" means a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance, and includes any contribution credited in respect of any such subscription or deposit and any interest or increment which has accrued under the rules of the Fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency;

(b) "contribution"

Price 1 anna or 1½d.

- (b) "contribution" means any amount credited in a Provident Fund, by <sup>1</sup>[any authority administering the Fund], by way of addition to, or otherwise in respect of, a subscription to, or deposit in, the Fund; and "contributory Provident Fund" means a Provident Fund the rules of which provide for the crediting of contributions;
- (c) "dependant" means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund, namely, a wife, husband, parent, child, minor brother, unmarried sister and a deceased son's widow and child, and, where no parent of the subscriber or depositor is alive, a paternal grand-parent;
- (d) "Government Provident Fund" means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of the Government for any class or classes of its employees or for teachers in educational institutions;
- (e) "Provident Fund" means a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions credited in respect of such subscriptions or deposits and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund;
- (f) "Railway administration" means—
- (i) any company administering a railway or tramway in British India either under a special Act of Parliament or of the Indian or a local Legislature, or under contract with the Secretary of State for India in Council, the Governor General in Council or a Local Government, or
- (ii) the manager of any railway or tramway administered by the Governor General in Council or a Local Government,

and

---

<sup>1</sup>These words were substituted for the words "the authority by which the Fund has been constituted" by S. 2 of the Provident Funds (Amendment) Act, 1925 (28 of 1925).



and includes, in any case referred to in sub-clause (ii), the Governor General in Council or the Local Government, as the case may be;

(g) "Railway Provident Fund" means a Provident Fund constituted by the authority of a railway administration for any class or classes of its employees.

3. (1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920, shall be entitled to, or have any claim on, any such compulsory deposit.

Protection of compulsory deposits.

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund to any dependant of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf, shall, subject to any deduction authorised by this Act and, save where the dependant is the widow or child of the subscriber or depositor, subject also to the rights of an assignee under an assignment made before the commencement of this Act, vest in the dependant, and shall, subject as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependant before the death of the subscriber or depositor.

4. (1) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer whose duty it is to make the payment shall pay the sum or balance, as the case may be, to the subscriber or depositor, or, if he is dead, shall—

Provisions regarding repayments.

(a) if the sum or balance, or any part thereof, vests in a dependant under the provisions of section 3, pay the same to the dependant or to such person as may be authorised by law to receive payment on his behalf; or

(b) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or

any,

any part thereof, which is not payable under clause (a), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it; or

(c) in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (a) or clause (b) pay the same,—

(i) to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act, 1889, or VII of 1889, under the Bombay Regulation VIII of 1827, entitling the holder thereof to receive payment of such sum, balance or part, or

(ii) where no person is so nominated, to any person who produces such probate, letters or certificate :

Provided that, where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing of the assignment has been received by the officer from the assignee, the officer shall, after making any deduction authorised by this Act and any payment due under clause (a) to or on behalf of the widow or children of the subscriber or depositor—

(i) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance would be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or

(ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it.

(2) The making of any payment authorised by sub-section (1) shall be a full discharge to the Government or the railway administration, as the case may be, from all liability in respect of

of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid.

5. (1) Subject to the provisions of this Act, but otherwise notwithstanding anything contained in any law for the time being in force or any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, any nomination, duly made in accordance with the rules of the Fund, which purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor, shall be deemed to confer such right absolutely, until such nomination is varied by another nomination made in like manner or is expressly cancelled by the subscriber or depositor by notice given in such manner and to such authority as is prescribed by those rules.

Rights of nominees.

(2) Notwithstanding anything contained in the Succession Certificate Act, 1889, or the Bombay Regulation VIII of 1827, any such person shall, on the death of the subscriber or depositor, be entitled to the grant of a certificate under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letters of administration to the estate of the deceased.

II 11889.

6. When the sum standing to the credit of any subscriber or depositor in any Government or Railway Provident Fund which is a contributory Provident Fund becomes payable, there may, if the authority <sup>1</sup>[specified in this behalf in the rules of the Fund] so directs, be deducted therefrom and paid to <sup>2</sup>[Government or the Railway administration, as the case may be]—

Power to make deductions.

(a) any amount due under a liability incurred by the subscriber or depositor to <sup>3</sup>[Government or the Railway administration], but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any interest or increment which has accrued on such contributions; or

(b) where

<sup>1</sup>These words were substituted for the words "by which the Fund has been constituted" by the Provident Funds (Amendment) Act, 1925 (28 of 1925).

<sup>2</sup>These words were substituted for the words "that authority" by *ibid.*

<sup>3</sup>These words were substituted for the words "that authority" by *ibid.*

*Provident Funds.* [ACT XIX OF 1925.]

(b) where the subscriber or depositor has been dismissed from <sup>1</sup>[his employment] for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within five years of the commencement thereof, the whole or any part of the amount of any such contributions, interest and increment.

Protection for acts done in good faith.

7. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Power to apply the Act to other Provident Funds.

8. The Local Government may, by notification in the local official Gazette, direct that the provisions of this Act shall apply to any Provident Fund established for the benefit of its employees by any local authority within the meaning of the Local Authorities Loans Act, 1914, and, on the making of <sup>IX of 1914.</sup> such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and such local authority were the Government.

Savings as to estates of soldiers.

9. Nothing in section 4 or section 5 shall apply to money belonging to any estate for the purpose of the administration of which the Regimental Debts Act, 1893, applies.

56 & 57, Vict., c. 5.

Repeals.

10. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

**THE SCHEDULE.**

**ENACTMENTS REPEALED.**

(See section 10.)

Year.	No.	Short title.	Extent of repeal.
1897	IX	The Provident Funds Act, 1897.	So much as has not been repealed.
1903	IV	The Provident Funds (Amendment) Act, 1903.	The whole.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Provident Funds Act, 1897.
1919	XIV	The Provident Funds (Amendment) Act, 1919.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Provident Funds Act, 1897.

<sup>1</sup>These words were substituted for the words "the employment of that authority" by the Provident Funds (Amendment) Act, 1925 (28 of 1925).

# ACT No. XX OF 1925.

PASSED BY THE INDIAN LEGISLATURE.

(Received the assent of the Governor General on the  
11th September, 1925.)

## An Act further to amend the Code of Civil Procedure, 1908.

V of 1908  
**W**HEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:—

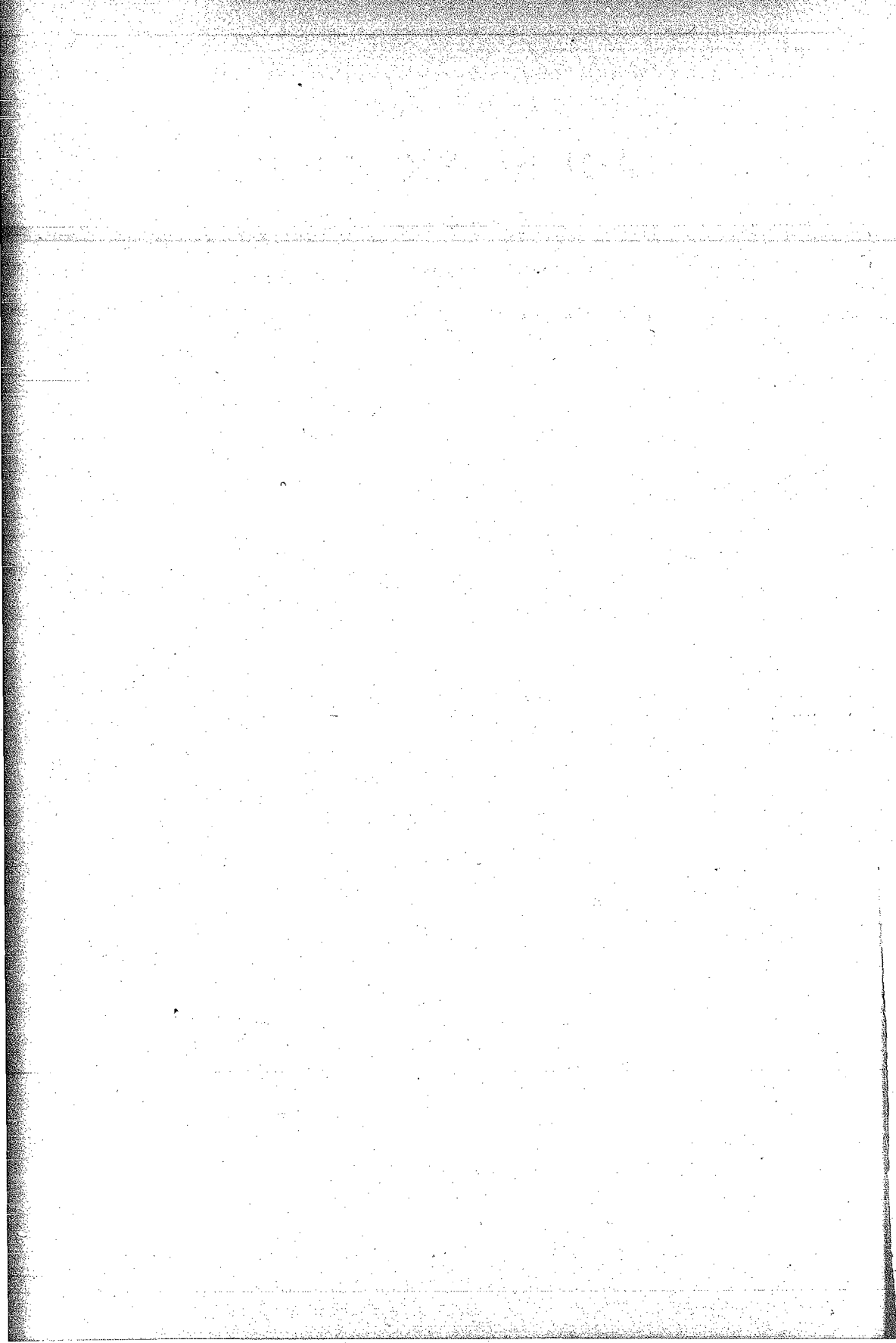
1. This Act may be called the Code of Civil Procedure Short title.  
(Amendment) Act, 1925.

V of 1908.  
2. To clause (i) of the proviso to sub-section (I) of section 60 Amendment of section 60, Act V of 1908. of the Civil Procedure Code, 1908, the following proviso shall be added, namely:—

II of 1912.  
“ Provided that where the decree-holder is a society registered or deemed to be registered under the Co-operative Societies Act, 1912, and the judgment-debtor is a member of the society, the provisions of sub-clauses (i) and (ii) shall be construed as if the word ‘twenty’ were substituted for the word ‘forty’ wherever it occurs and the word ‘forty’ for the word ‘eighty’.”

Price 1 anna or  $1\frac{1}{2}$ d.]

MGIPC—L—I-62 & 63—23-10-25—7,500.



# ACT No. XXI OF 1925.

PASSED BY THE INDIAN LEGISLATURE.

(Received the assent of the Governor General on the  
11th September, 1925.)

## An Act further to amend the Religious Endowments Act, 1863.

of 1863. **W**HEREAS it is expedient further to amend the Religious Endowments Act, 1863, for the purposes hereinafter appearing; It is hereby enacted as follows:—

of 1863. 1. This Act may be called the Religious Endowments Short title. (Amendment) Act, 1925.

of 1863. 2. In section 2 of the Religious Endowments Act, 1863 Amendment of section 2, Act XX of 1863. (hereinafter referred to as the said Act), after the words 'and "Court" shall' the words "save as provided in section 10," and after the words "district in which" the words "or any other Court empowered in that behalf by the Local Government within the local limits of the jurisdiction of which," shall be inserted.

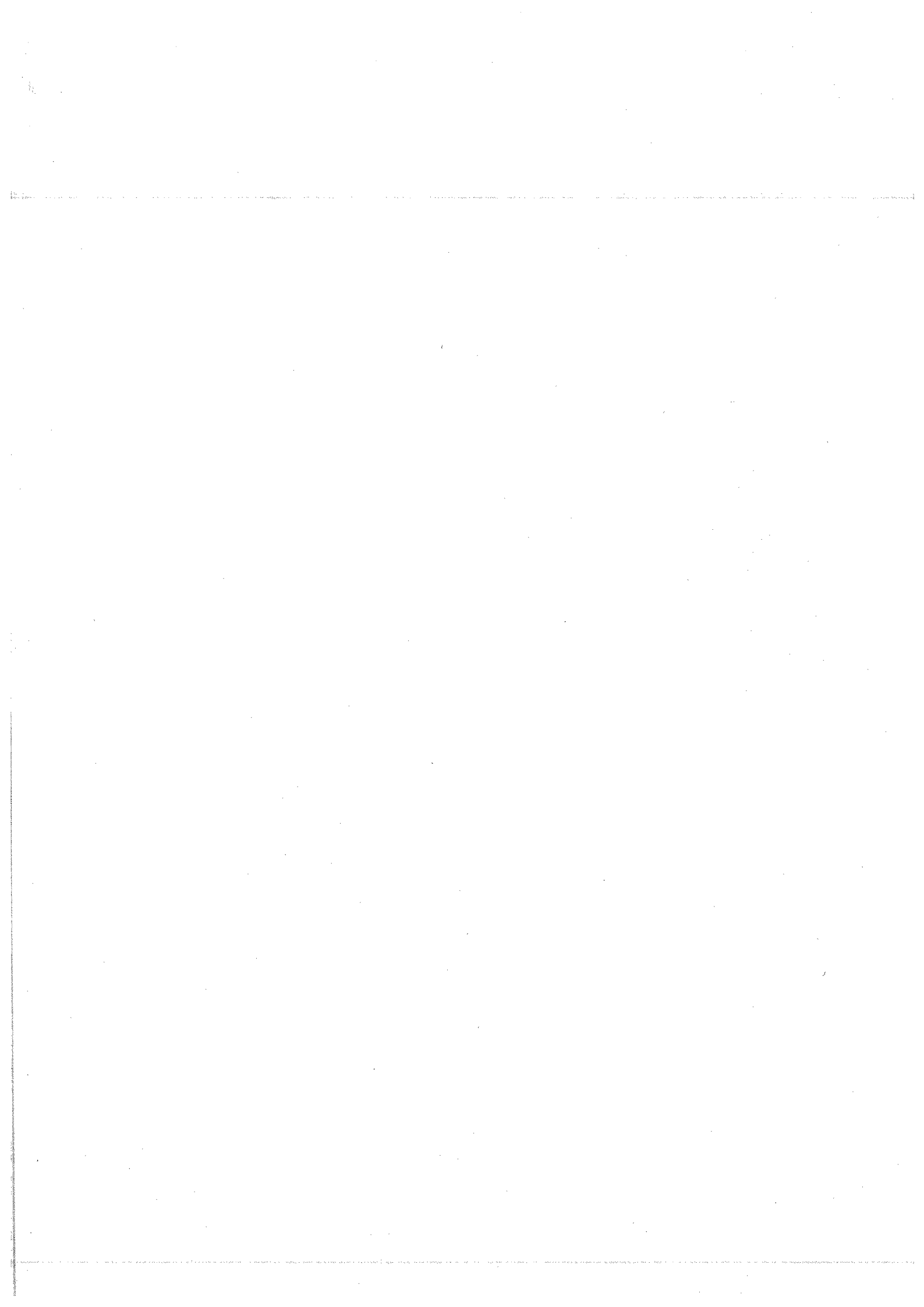
3. To section 10 of the said Act the following *Explanation* Amendment of section 10, Act XX of 1863. shall be added, namely:—

"*Explanation.*—In this section 'Civil Court' means the principal Court of original civil jurisdiction in the district in which the mosques, temples or religious establishments for which the committee has been appointed or any of them are situate."

Price 1 anna or 1½d.]

1

MGIPC—1—1.63—23.10.25—7,500.





# ACT No. XXII OF 1925.

PASSED BY THE INDIAN LEGISLATURE.

(Received the assent of the Governor General on the 11th  
September, 1925.)

## An Act to amend the law relating to salt and salt-revenue.

**W**HEREAS, by rules made under section 45A of the Government of India Act, central and provincial subjects have been classified, for the purpose of distinguishing the functions of Local Governments from the functions of the Governor General in Council, and it is, therefore, expedient to amend certain enactments in force in the Presidencies of Fort St. George and Bombay relating to salt, being a subject classified in the aforesaid rules as a central subject, so as to vest in the Governor General in Council powers of control in respect of that subject; It is hereby enacted as follows:—

1. (1) This Act may be called the Salt Law Amendment Act, 1925. Short title and commencement.

(2) It shall come into force on such date or dates as the Governor General in Council may appoint, and different dates may be appointed for different provisions of this Act and for different parts of British India.

2. The Transport of Salt Act, 1879, the Madras Salt Act, 1889, and the Bombay Salt Act, 1890, are hereby amended to the extent and in the manner stated in the Schedule. Repeal and amendment of certain enactments.

3. Any appointment, notification, rule, order, licence, pass, permit or power in force before the commencement of this Act and made, issued or conferred by an authority, for the making, issuing or conferring of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made, issued or conferred by such new authority unless and until cancelled or withdrawn or superseded by an appointment, notification, rule or order made or issued by such new authority. Saving of rules, etc., made by previous authorities.

## THE SCHEDULE.

Price 1 anna or 1½d.]

## THE SCHEDULE.

(See section 2.)

## PART I.—THE TRANSPORT OF SALT ACT, 1879 (XVI OF 1879).

(1) After section 1 the following section shall be inserted, namely:—

“ 1A. The ‘ Central Board of Revenue ’ means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924.”

Definition.

IV of 1924.

(2) In clauses (b) and (c) of section 3, for the words “ Governor of Bombay in Council ” the words “ Central Board of Revenue ” shall be substituted.

(3) In the third paragraph of section 6, for the words “ Local Government ” the words “ Governor General in Council ” shall be substituted.

## PART II.—THE MADRAS SALT ACT, 1889 (IV OF 1889).

(1) For the word “ Commissioner,” wherever it occurs in the Act, the words “ Collector of salt-revenue ” shall be substituted.

(2) In section 1, in clause (l) of section 3, and in sections 6, 9, 43, 71, 72 and 85, for the words “ Governor in Council ” the words “ Governor General in Council ” shall be substituted.

(3) In clauses (e), (g) and (k) of section 3 and in sections 5, 7, 13, 14, 15, 32, 59 and 85A, for the words “ Governor in Council ” the words “ Central Board of Revenue ” shall be substituted.

(4) In section 3—

(a) in clause (h) for the word “ Government ” the words “ the Central Board of Revenue ” shall be substituted;

(b) after clause (k) the following clause shall be inserted, namely:—

“ (kk) ‘ Central Board of Revenue ’ means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 ”;

IV of 1924;

and

(c) in clause (l), for the word “ officer ” the words “ Collector of salt-revenue ” shall be substituted.

(5) For

(5) For section 4 the following section shall be substituted, namely:—

“ 4. Notwithstanding anything contained in Regulations I <sup>Appointment of</sup> and II of 1803, the Governor General in Council may, by noti- <sup>Collector of</sup> <sup>salt-revenue.</sup> fication,—

- (a) appoint, after consideration of any recommendation made by the Governor in Council in this behalf, a Collector of salt-revenue who shall, subject to the orders of the Central Board of Revenue, control the administration of the Salt Department and the collection of the salt-revenue; and
- (b) withdraw from the Board of Revenue or the Collector of Land-revenue all or any of their or his powers in respect of the salt-revenue.”

(6) In section 5, for the word “ his ” the word “ its ” shall be substituted.

(7) In clause (a) of section 16, for the words “ the Governor in Council ” the words “ His Majesty ” shall be substituted.

(8) In clause A of section 43, for the word and figure “ section 8 ” the words, letter and figure “ clause (c) of section 7 ” shall be substituted.

(9) In section 47, for the words “ Whenever any officer of the Salt, Police, Land-revenue, Abkari or Customs Departments, empowered by the Governor in Council in this behalf ” the words “ When any officer of the Salt or Customs Departments empowered in this behalf by the Central Board of Revenue or any officer of the Police, Land-revenue or Abkari Departments empowered in this behalf by the Central Board of Revenue with the approval of the Governor in Council ” shall be substituted.

(10) In section 80, for the words “ Fort St. George Gazette,” where they first occur, the words “ Gazette of India ” shall be substituted, and the proviso to the first sentence shall be omitted.

(11) Section 86 shall be renumbered sub-section (1) of section 86 and to the said section as renumbered the following sub-section shall be added, namely:—

“ (2) The Governor General in Council may, on the application of any person aggrieved by any proceeding or order of the Central Board of Revenue under this Act, reverse or modify such proceeding or order.”

PART III.

## PART III.—THE BOMBAY SALT ACT, 1890 (II OF 1890).

(1) Except in clause (a) of section 3, in section 5 and in sub-sections (2) and (3) of section 57, for the words "Commissioner" and "Commissioners," wherever they occur in the Act, the words "Collector" and "Collectors," respectively, shall be substituted.

(2) For clause (a) of section 3 the following clause shall be substituted, namely:—

"(a) 'Central Board of Revenue' means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924."

IV of 1924.

(3) In section 4—

(a) for the words "Governor in Council" the words "Governor General in Council" shall be substituted;

(b) in sub-section (1), the words "Subject to such control of the Governor General in Council as may be prescribed by rules made under section 45A of the Government of India Act" shall be omitted;

(c) to sub-section (1) the following proviso shall be added, namely:—

"Provided that the Governor General in Council before appointing a Collector of Salt-revenue shall consider any recommendation made by the Governor in Council in this behalf";

and

(d) clause (b) of sub-section (2) shall be omitted.

(4) In section 5—

(a) in sub-section (1), for the words "Commissioners to whom they are respectively subordinate and to the orders of Government" the words "Central Board of Revenue" shall be substituted; and

(b) sub-section (2) shall be omitted.

(5) In sections 6 and 13, for the word "Government" the words "the Governor General in Council" shall be substituted.

(6) In sections 7 and 42, the words "Collector or" shall be omitted.

(7) To

(7) To section 8 the following further proviso shall be added, namely:—

“ Provided, further, that the powers conferred on Government by section 23 of the said Code shall, in respect of officers of the Salt Department, be exercised by the Central Board of Revenue only.”

(8) (a) In sections 10, 17, 24, 25, 36 and sub-section (1) of section 52, for the words “ Governor in Council ” the words “ Central Board of Revenue ” shall be substituted.

(b) In sections 14, 37, 58 and 59 and in sub-section (3) of section 52, for the words “ Governor in Council ” the words “ Governor General in Council ” shall be substituted.

(9) In sections 10, 36 and 60, for the words “ Bombay Government Gazette ” the words “ Gazette of India ” shall be substituted.

(10) In section 10—

(a) in clause (b) of sub-section (1) at the beginning, the words “ with the approval of the Governor in Council in respect of an officer of a department under the Governor in Council ” shall be inserted;

(b) in sub-section (2), for the words “ him ” and “ Government,” respectively, the word “ it ” shall be substituted.”

(11) In section 25, for the words “ he may ” the words “ the Governor in Council shall, on the request of the Board ” shall be substituted.

(12) In section 57—

(a) in sub-section (1), the words “ or a Collector ” shall be omitted;

(b) in sub-section (2), for the words “ Commissioner, if any, to whom the Collector is subordinate, and, if there be no such Commissioner, to Government ” the words “ Central Board of Revenue ” shall be substituted; and

(c) for sub-sections (3) and (4) the following sub-section shall be substituted, namely:—

“ (3) The Governor General in Council may, on the application of any person aggrieved by any order passed under this Act by the Central  
Board

*Salt Law Amendment.* [ACT XXII OF 1925.]

Board of Revenue, reverse or modify such order."

(13) To section 58, after clause (j), the following clause shall be added, namely:—

“(k) the making and disposal of appeals under this Act.”

(14) In section 60, the words “and, in Sind, in the Sind Official Gazette” shall be omitted.

# ACT No. XXIII OF 1925.

PASSED BY THE INDIAN LEGISLATURE.

(Received the assent of the Governor General on the  
11th September, 1925.)

## An Act to confer certain exemptions on members of legislative bodies constituted under the Government of India Act.

WHEREAS it is expedient to exempt members of any legislative body constituted under the Government of India Act from liability to serve as jurors or assessors and from arrest and detention in prison under civil process at the time of meeting of such body or of a committee thereof; It is hereby enacted as follows:—

1. (1) This Act may be called the Legislative Members Exemption Act, 1925. Short title and commencement.

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

2. After clause (a) of section 320 of the Code of Criminal Procedure, 1898, the following clause shall be inserted, Amendment of section 320, Act V of 1898. namely:—

“(aa) members of either Chamber of the Indian Legislature and members of a Legislative Council constituted under the Government of India Act;”

3. After section 135 of the Code of Civil Procedure, 1908, the following section shall be inserted, Insertion of new section 135A in Act V of 1908. namely:—

“135A. (1) No person shall be liable to arrest or detention in prison under civil process— Exemption of members of legislative bodies from arrest and detention under civil process.

(a) if he is a member of either Chamber of the Indian Legislature or of a Legislative Council constituted under the Government of India Act, during the continuance of any meeting of such Chamber or Council;

(b) if  
1

Price 1 anna or 1½d.]

*Legislative Members Exemption.* [ACT XXIII OF 1925.]

- (b) if he is a member of any committee of such Chamber or Council, during the continuance of any meeting of such committee;
- (c) if he is a member of either Chamber of the Indian Legislature, during the continuance of a joint sitting of the Chambers, or of a meeting of a conference or joint committee of the Chambers of which he is a member;

and during the fourteen days before and after such meeting or sitting.

(2) A person released from detention under sub-section (1) shall, subject to the provisions of the said sub-section, be liable to re-arrest and to the further detention to which he would have been liable if he had not been released under the provisions of sub-section (1)."



# ACT No. XXIV OF 1925.

PASSED BY THE INDIAN LEGISLATURE.

(Received the assent of the Governor General on the  
11th September, 1925.)

## An Act to supplement certain provisions of the Sikh Gurdwaras Act, 1925.

**W**HEREAS it is expedient to supplement, by legislation in the Indian Legislature, certain provisions of the Sikh Gurdwaras Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:—

**1.** (1) This Act may be called the Sikh Gurdwaras (Supplementary) Act, 1925. Short title and commencement.

(2) It shall come into force on the date appointed by the Local Government under sub-section (3) of section 1 of the Sikh Gurdwaras Act, 1925.

**2.** The Sikh Gurdwaras Act, 1925 (hereinafter referred to as the said Act), shall, so far as it adds to or takes from the jurisdiction of the High Court of Judicature at Lahore or prescribes the procedure of the said Court, be as valid as if it had been passed by the Indian Legislature. Validation of certain provisions of Pun. Act VIII of 1925.

**3.** In section 12 of the said Act,—

- (a) in sub-section (2) after the word "president" the words "appointed by notification by the Governor General in Council" shall be inserted;
- (b) in sub-section (4) after the words "fixed by the Local Government" the words "or in the case of the president by the Governor General in Council" shall be inserted;
- (c) in sub-section (5) after the words "member of a tribunal" the words "other than the president" shall be inserted;
- (d) in sub-section (6) after the word "member" the words "the Governor General in Council where the vacancy occurs in the office of president and in any other case" shall be inserted.

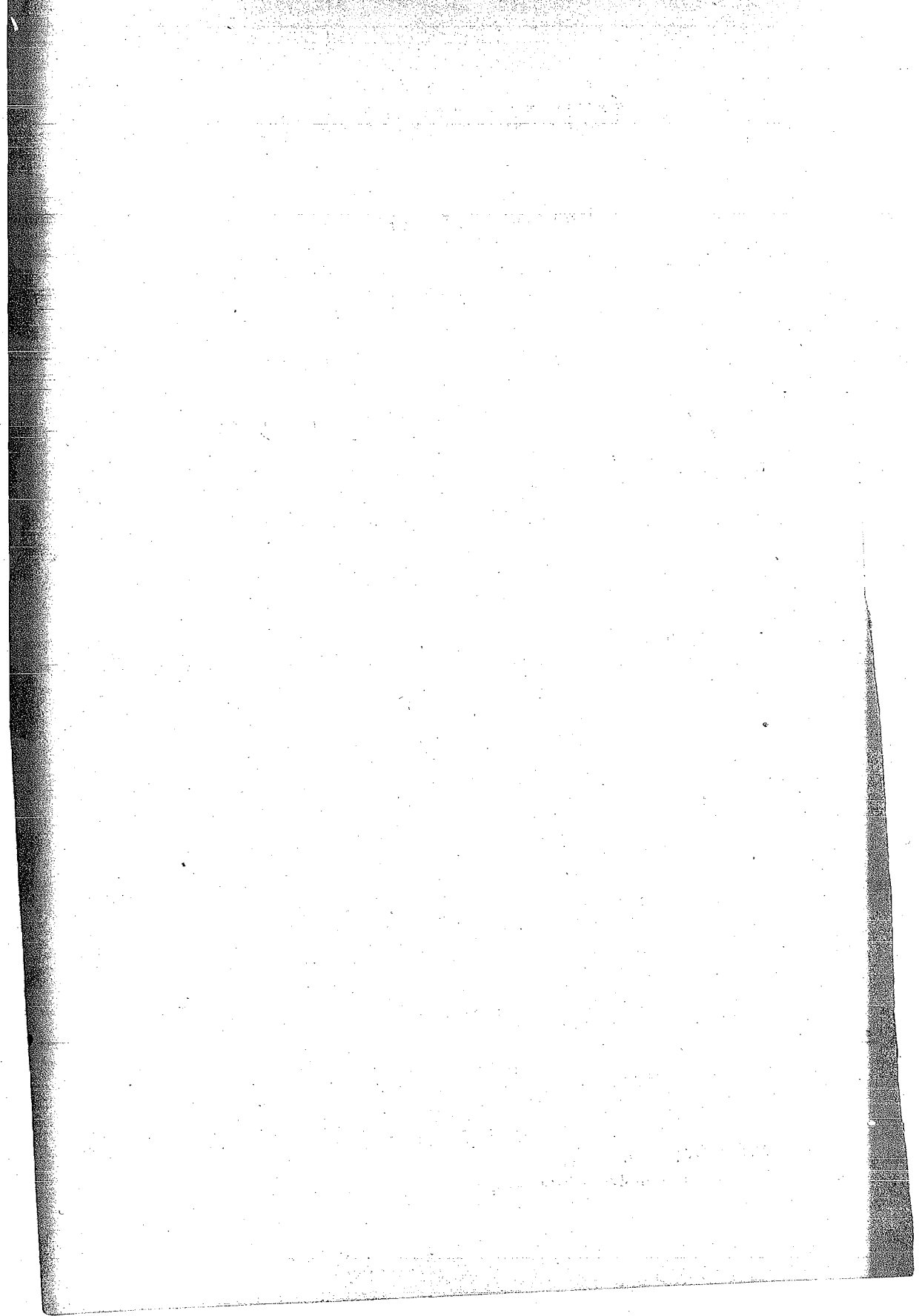
Amendment of section 12, Pun. Act VIII of 1925.

*Price 1 anna or 1½d.]*

MGIPC—D—I-61—22-10-25—4,500.

Pun. Act VIII of 1925.

Pun. Act VIII of 1925.



# ACT No. XXV OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st,  
September, 1925.)

## An Act to provide for the fostering and development of the bamboo paper industry in British India.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well being of the community, to provide for the fostering and development of the industry of making paper from bamboo by increasing the import duties leviable on certain kinds of paper and to determine the duties which shall be payable in respect of such paper during the next seven years; It is hereby enacted as follows:—

1. This Act may be called the Bamboo Paper Industry Short title.  
(Protection) Act, 1925.

VIII of 1894.

2. (1) In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Amendment of Act VIII of 1894.  
Schedule to this Act.

(2) The amendments made by sub-section (1) shall have effect up to the thirty-first day of March, 1932.

## THE SCHEDULE.

AMENDMENTS TO BE MADE IN SCHEDULE II TO THE INDIAN  
TARIFF ACT, 1894.

(See section 2.)

1. In Item No. 99 the following words shall be deleted:—

“ruled or printed forms and account and manuscript  
books,”;

and

Price 1 anna or  $1\frac{1}{2}d.$ ]

1

*Bamboo Paper Industry (Protection).* [ACT XXV OF 1925.]

and to that Item, the following shall be added, namely:—

“and paper and stationery otherwise specified (see Nos. 155 and 156).”

2. After Item No. 154, the following shall be added, namely:—

“ PAPER, PASTE BOARD, AND STATIONERY.

155	PRINTING PAPER (excluding chrome, marble, flint, poster and stereo), all sorts containing less than 65 per cent. of mechanical wood pulp . . . . .	Pound	One anna.
156	WRITING PAPER, all sorts, including ruled or printed forms and account and manuscript books and the binding thereof . . . . .	Pound	One anna.”

# ACT No. XXVI OF 1925,

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st  
September, 1925.)

## An Act to amend the law with respect to the carriage of goods by sea.

WHEREAS at the International Conference on Maritime Law held at Brussels in October, 1922, the delegates at the Conference, including the delegates representing His Majesty, agreed unanimously to recommend their respective Governments to adopt as the basis of a convention a draft convention for the unification of certain rules relating to bills of lading;

AND WHEREAS at a meeting held at Brussels in October, 1923, the rules contained in the said draft convention were amended by the Committee appointed by the said Conference;

AND WHEREAS provision has been made by the Carriage of Goods by Sea Act, 1924, that the said rules as so amended and as set out with modifications in the Schedule shall, subject to the provisions of that Act, have the force of law with a view to establishing the responsibilities, liabilities, rights and immunities attaching to carriers under bills of lading;

AND WHEREAS it is expedient that like provision should be made in British India; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Carriage of Goods by Sea Act, 1925. Short title and extent.

(2) It extends to the whole of British India.

2. Subject to the provisions of this Act, the rules set out in the Schedule (hereinafter referred to as "the Rules") shall have effect in relation to and in connection with the carriage of goods by sea in ships carrying goods from any port in British India to any other port whether in or outside British India. Application of Rules.

3. There

1

Price 1 anna or 1½d.]

Indian Carriage of Goods by Sea. [ACT XXVI

Absolute warranty of seaworthiness not to be implied in contracts to which Rules apply.

Statement as to application of Rules to be included in bills of lading.

Modification of Article VI of Rules in relation to goods carried in sailing ships and by prescribed routes.

Modification of Rules 4 and 5 of Article III in relation to bulk cargoes.

Saving and operation.

3. There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply any absolute undertaking by the carrier of the goods to provide a seaworthy ship.

4. Every bill of lading, or similar document of title, issued in British India which contains or is evidence of any contract to which the Rules apply, shall contain an express statement that it is to have effect subject to the provisions of the said Rules as applied by this Act.

5. Article VI of the Rules shall, in relation to—

- (a) the carriage of goods by sea in sailing ships carrying goods from any port in British India to any other port whether in or outside British India, and
- (b) the carriage of goods by sea in ships carrying goods from a port in British India notified in this behalf in the Gazette of India by the Governor General in Council to a port in Ceylon specified in the said notification,

have effect as though the said Article referred to goods of any class instead of to particular goods and as though the proviso to the second paragraph of the said Article were omitted.

6. Where under the custom of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in the Rules, the bill of lading shall not be deemed to be *prima facie* evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

7. (1) Nothing in this Act shall affect the operation of sections four hundred and forty-six to four hundred and fifty, both inclusive, five hundred and two, and five hundred and three of the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or the operation of any other enactment for the time being in force limiting the liability of the owners of seagoing vessels.

57 & 58 Vict.  
c. 60.

(2) The Rules shall not by virtue of this Act apply to any contract for the carriage of goods by sea before such day, not being earlier than the first day of January, 1926, as the Govern-

nor

nor General in Council may, by notification in the Gazette of India, appoint, nor to any bill of lading or similar document of title issued, whether before or after such day as aforesaid, in pursuance of any such contract as aforesaid.

SCHEDULE.

RULES RELATING TO BILLS OF LADING.

ARTICLE I.

*Definitions.*

In these Rules the following expressions have the meanings hereby assigned to them respectively, that is to say—

- (a) "Carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper:
- (b) "Contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same:
- (c) "Goods" includes goods, wares, merchandises, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried:
- (d) "Ship" means any vessel used for the carriage of goods by sea:
- (e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

ARTICLE II.

*Risks.*

Subject to the provisions of Article VI, under every contract of carriage of goods by sea the carrier, in relation to the loading

loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

ARTICLE III.

*Responsibilities and Liabilities.*

1. The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to—

- (a) make the ship seaworthy :
- (b) properly man, equip, and supply the ship :
- (c) make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

2. Subject to the provisions of Article IV, the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.

3. After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

- (a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage :
- (b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper :
- (c) The apparent order and condition of the goods :

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received



received, or which he has had no reasonable means of checking.

4. Such a bill of lading shall be *prima facie* evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (a), (b) and (c).

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage be not apparent, within three days, such removal shall be *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage, the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

7. After the goods are loaded the bill of lading to be issued by the carrier, master or agent of the carrier, to the shipper shall, if the shipper so demands, be a "shipped" bill of lading, provided that, if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier, such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods

goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Article be deemed to constitute a "shipped" bill of lading.

8. Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault or failure in the duties and obligations provided in this Article or lessening such liability otherwise than as provided in these Rules, shall be null and void and of no effect.

A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

#### ARTICLE IV.

##### *Rights and Immunities.*

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation in accordance with the provisions of paragraph 1 of Article III.

Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this section.

2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

- (a) act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship:
- (b) fire, unless caused by the actual fault or privity of the carrier:
- (c) perils, dangers and accidents of the sea or other navigable waters:
- (d) act of God:
- (e) act of war:
- (f) act

- (f) act of public enemies :
- (g) arrest or restraint of princes, rulers or people, or seizure under legal process :
- (h) quarantine restriction :
- (i) act or omission of the shipper or owner of the goods, his agent, or representative :
- (j) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general :
- (k) riots and civil commotions :
- (l) saving or attempting to save life or property at sea :
- (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods :
- (n) insufficiency of packing :
- (o) insufficiency or inadequacy of marks :
- (p) latent defects not discoverable by due diligence :
- (q) any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3. The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants.

4. Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 100*l.* per package or unit, or the equivalent of that sum in other currency, unless the nature  
and

and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

This declaration if embodied in the bill of lading shall be *prima facie* evidence, but shall not be binding or conclusive on the carrier.

By agreement between the carrier, master or agent of the carrier and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with goods if the nature or value thereof has been knowingly mis-stated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented, with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

#### ARTICLE V.

##### *Surrender of Rights and Immunities, and Increase of Responsibilities and Liabilities.*

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under the Rules contained in any of these Articles, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of these Rules shall not be applicable to charterparties, but if bills of lading are issued in the case of a ship under a charterparty they shall comply with the terms  
of

or 1925.] *Indian Carriage of Goods by Sea.*

of these Rules. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

#### ARTICLE VI.

##### *Special Conditions.*

Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier, and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care, and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect:

Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed, are such as reasonably to justify a special agreement.

#### ARTICLE VII.

##### *Limitations on the Application of the Rules.*

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea.

#### ARTICLE VIII.

*Indian Carriage of Goods by Sea.* [ACT XXVI OF 1925.]

ARTICLE VIII.

*Limitation of liability.*

The provisions of these Rules shall not affect the rights and obligations of the carrier under any Statute for the time being in force relating to the limitation of the liability of owners of sea-going vessels.

ARTICLE IX.

The monetary units mentioned in these Rules are to be taken to be gold value.

# ACT No. XXVII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st  
September, 1925.)

## An Act further to amend the Opium Act, 1857.

**W**HEREAS it is expedient further to amend the Opium Act, 1857, for the purposes hereinafter appearing; It is hereby enacted as follows:—

**1.** (1) This Act may be called the Opium (Amendment) Act, 1925. Short title and commencement.

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

**2.** The Opium Act, 1857, is hereby amended to the extent and in the manner mentioned in the Schedule. Amendment of Act XIII of 1857.

**3.** Any appointment, notification, order, rule or form made, issued or sanctioned, before the commencement of this Act, by an authority for the making, issuing or sanctioning of which a new authority is substituted by or under this Act shall, unless inconsistent with this Act, be deemed to have been made, issued or sanctioned by such new authority unless and until superseded by an appointment, notification, order, rule or form made, issued or sanctioned by such new authority. Saving of appointments, etc., made by previous authorities.

**4.** The entries in the Schedule to the United Provinces Board of Revenue Act, 1922, relating to the Opium Act, 1857, are hereby repealed. Repeal.

P. Act XII  
1922.  
III of 1857.

## THE SCHEDULE.

THE SCHEDULE.

(See section 2.)

Amendments to be made in the Opium Act, 1857.

1. For section 3 the following section shall be substituted, namely:—

Appointment of officers to superintend provision of opium.

“3. (1) The Governor General in Council, after consideration of any recommendation made in this behalf by the Local Government of the province for which the appointment is to be made, may appoint Opium Agents to superintend the provision of opium for Government.

(2) The Governor General in Council may appoint officers to assist the Opium Agents, under the designation of Deputy Agents, district opium officers, assistant opium officers, or such other designations as he may think fit, and may delegate to the Opium Agents the power of appointing all or any of such officers.

(3) Unless the Governor General in Council, after consideration of any recommendation made by the Local Government in this behalf, otherwise directs, the Collector shall be Deputy Agent for his district.

(4) The Governor General in Council may by rule prescribe the powers and duties of officers appointed under this section.”

2. In sections 4, 5, 8, 12, 13 and 15, for the words “the Board of Revenue” the word “Government” shall be substituted.

3. For section 6 the following section shall be substituted, namely:—

Power of Government to appoint officer to conduct suits.

“6. Government may take upon itself, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which Government or an Agent, or any other officer subordinate to Government, may be engaged, instead of leaving such superintendence to the Agent or any other officer.”

4. In section 7,—

(a) the words “The Board of Revenue with the sanction of” shall be omitted;

(b) for the words “With the like sanction they” the word “Government” shall be substituted; and

(c) in



(c) in the last paragraph, for the words "the Board of Revenue" the word "Government" shall be substituted.

5. In sections 8, 9, 10, 11, 12, 18, 21, 23 and 26, for the words "Sub-deputy Agents" and "Sub-deputy Agent" the words "district opium officers" and "district opium officer", respectively, shall be substituted.

6. In section 11, for the words "other district officers" the words "other officers duly authorised to receive such opium" and for the words "of the district" the word "other" shall be substituted.

7. In section 12, for the words "other district officer" the words "other officer authorised as aforesaid", and for the words "district officer", where they occur in the second paragraph, the words "receiving officer" shall be substituted.

8. In sections 13 and 14, for the word "district" the word "receiving" shall be substituted.

9. In section 15,—

(a) for the words "district officer" the words "district opium officer", and

(b) in the third paragraph, for the words "the Board" the word "Government"

shall be substituted.

10. In section 16, for the words "district officers" the words "district opium officers or other officers duly authorised in this behalf", and for the words "district officer" where they occur in two places the words "adjusting officer" shall be substituted.

11. In section 18, for the words "other district officer on his behalf" the words "other officer duly authorised in this behalf" shall be substituted.

12. In section 22, for the words "sub-deputies" the words "the district opium officers" shall be substituted.

13. In section 30, for the words "Board of Revenue" the words "Opium Agent" and for the word "them" the word "him" shall be substituted.

14. In section 31, for the words "Sub-deputy Opium Agent" the words "district opium officer" shall be substituted.

15. After section 31, the following section shall be added, namely:—

"32. In this Act, except in section 23, where the word <sup>Meaning of</sup> "Government," occurs for the first time, and in section 29, "Government" means 'the Government of India'."

1941

1942

1943

1944

1945

1946

1947

1948

1949

1950

1951

1952

1953

1954

1955

1956

1957

1958

1959

1960

1961

1962

1963

1964

1965

1966

1967

1968

1969

1970

1971

1972

1973

1974

1975

1976

1977

1978

1979

1980

1981

1982

1983

1984

1985

1986

1987

1988

1989

1990

1991

1992

1993

1994

1995

1996

1997

# ACT No. XXVIII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 21st  
September, 1925.)

## An Act to amend the Provident Funds Act, 1925.

**W**HEREAS it is expedient to amend the Provident Funds Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:—

**1.** (1) This Act may be called the Provident Funds (Amendment) Act, 1925.

Short title and commencement.

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

**2.** In clause (b) of section 2 of the Provident Funds Act, 1925 (hereinafter referred to as the said Act), for the words "the authority by which the Fund has been constituted" the words "any authority administering the Fund" shall be substituted.

Amendment of section 2, Act XIX of 1925.

**3.** In section 6 of the said Act,—

(a) for the words "by which the Fund has been constituted" the words "specified in this behalf in the rules of the Fund",

Amendment of section 6, Act XIX of 1925.

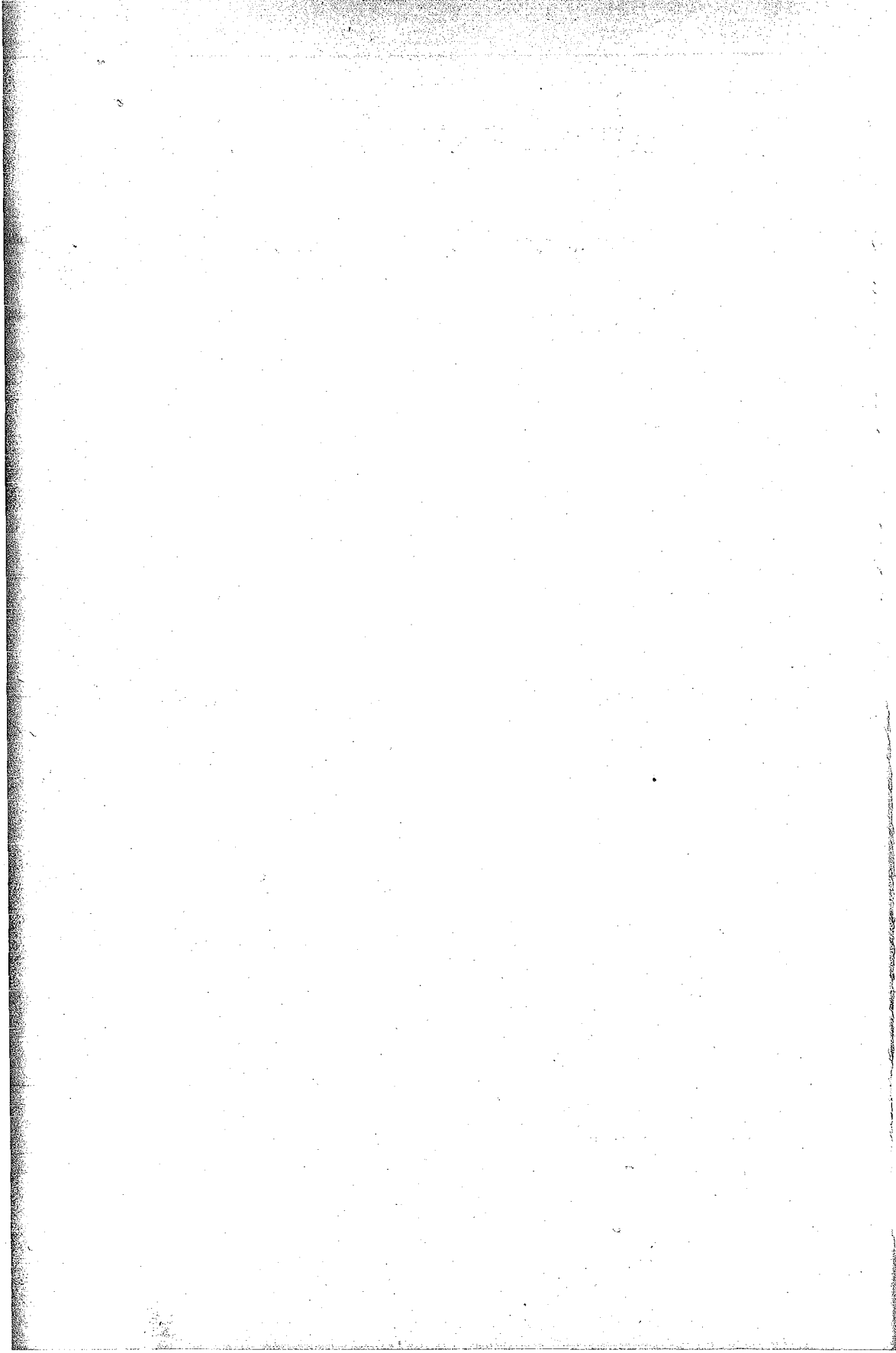
(b) for the words "that authority", where they occur for the first time, the words "Government or the Railway administration, as the case may be",

(c) in clause (a), for the words "that authority" the words "Government or the Railway administration", and

(d) in clause (b), for the words "the employment of that authority" the words "his employment"

shall be substituted.

Price 1 anna or 1½ d.



F

F

F

# ACT No. XXIX OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act further to amend the Indian Penal Code.

**W**HEREAS it is expedient further to amend the Indian Penal Code; It is hereby enacted as follows:—

XLV of 1860.

1. This Act may be called the Indian Penal Code (Amendment) Act, 1925. Short title.

XLV of 1860.

2. In section 375 of the Indian Penal Code (hereinafter referred to as the said Code), in clause *Fifthly* for the word "twelve" the word "fourteen" shall be substituted, and in the *Exception* for the word "twelve" the word "thirteen" shall be substituted. Amendment of section 375, Act XLV of 1860.

3. To section 376 of the said Code the following shall be added, namely:— Amendment of section 376, Act XLV of 1860.

"unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

4. Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife has not attained the age of thirteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date. Sexual intercourse not rape in certain circumstances;

V of 1898.

5. In Schedule II to the Code of Criminal Procedure, 1898, for the entries against section 376 the following entries shall be substituted, namely:— Amendment of Schedule II Act V of 1898;

"Of Rape.

Price 1 anna or 1½d.]

1

"Of Rape.

376	Rape If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Chief Presidency Magistrate or District Magistrate.
	If the sexual intercourse was by a man with his own wife being under 12 years of age.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	In any other case.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session."

# ACT No. XXX OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act further to amend the Indian Limitation Act, 1908.

**W**HEREAS it is expedient further to amend the Indian  
Limitation Act, 1908, for the purposes hereinafter  
appearing; It is hereby enacted as follows:—

**1.** (1) This Act may be called the Indian Limitation  
(Amendment) Act, 1925. Short title and  
commencement.

(2) It shall come into force on the first day of April, 1926.

**2.** In the First Division of the First Schedule to the Indian  
Limitation Act, 1908 (hereinafter called the said Act),— Amendment of  
Article 5 of  
First Schedule  
to Act IX of  
1908.

(a) after Article 4 the heading “*Part IV.—One year.*”  
shall be inserted;

(b) in Article 5—

(i) to the entry in the first column the following  
shall be added namely:—

“where the provision of such summary procedure  
does not exclude the ordinary procedure  
in such suits and under Order XXXVII  
of the said Code”;

(ii) for the entry in the second column the entry  
“One year” shall be substituted; and

(c) the heading “*Part IV.—One year*” after Article 5  
shall be omitted.

**3.** In the Third Division of the First Schedule to the said  
Act, in the entry in the first column of Article 159, after the  
figures and letter “128 (2) (f)” the words and figures “or  
under Order XXXVII” shall be inserted. Amendment of  
Article 159 of  
First Schedule  
to Act IX of  
1908.

*Price 1 anna or 1½ d.]*

2001 to 2002. J. J. O'D.

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]



# ACT No. XXXI OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act to provide for the grading of coal and for the grant of certificates for coal intended for export.

**W**HEREAS it is expedient to provide for the grading of coal and for the grant of certificates for coal intended for export; It is hereby enacted as follows:—

1. (1) This Act may be called the Coal Grading Board Act, short title and extent.  
1925.

(2) It extends to the whole of British India.

2. In this Act, unless there is anything repugnant in the Definitions.  
subject or context,—

- (a) "Board" means the Coal Grading Board constituted under section 3;
- (b) "export" means the shipment of coal as cargo from a port in British India;
- (c) "graded colliery" means a colliery the grade of all or any of the seams or of a part of any seam of which has been determined under the provisions of section 4 and is entered in the grade list maintained in accordance with the provisions of section 5;
- (d) "prescribed" means prescribed by rules made under this Act; and
- (e) "secretary" means the secretary of the Board appointed under sub-section (4) of section 3.

3. (1) As soon as may be after the commencement of this Act, the Governor General in Council shall cause to be constituted a Board consisting of the following members, Constitution of Coal Grading Board.  
namely:—

- (a) the Chief Mining Engineer to the Railway Board; and
- (b) four persons nominated respectively by the Indian Mining Association, the Indian Mining Federation, the Bengal Chamber of Commerce and the Bengal National Chamber of Commerce:

Provided

Price 1 anna or 1½ d.]

Provided that, if within the period prescribed in this behalf any such body fails to make any nomination which it is entitled to make under this sub-section, the Governor General in Council may himself appoint a member or members, as the case may be, to fill the vacancy or vacancies.

(2) The Board so constituted shall be a body corporate by the name of the Coal Grading Board, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract and shall by the said name sue and be sued.

(3) The Chief Mining Engineer to the Railway Board shall be *ex-officio* President of the Board.

(4) The secretary of the Board shall be a person, not being a member of the Board, appointed by the Board.

Power to grade  
collieries, to  
revise grading  
and to grant  
certificates.

4. (1) On the application of any colliery and on payment of the prescribed fee, the Board shall, in such manner as may be prescribed, determine the grade of coal of all or any of the seams or of a part of a seam of such colliery, and shall by notice in writing inform the colliery of the grade so determined.

(2) The colliery may, within thirty days from the receipt of the said notice, lodge with the Board an objection to the order passed under sub-section (1) determining the grade of any coal, and the Board shall, on payment of the prescribed fee and after further inspection and analysis, decide such objection; the decision of the Board shall be final and shall not be questioned in any Court.

(3) Where the grade of any coal has been determined under the provisions of this section, the Board shall, on the request of the colliery, furnish a certificate in the prescribed form, specifying the grade of such coal.

Maintenance  
and publication  
of grade list.

5. (1) The Board shall maintain a grade list, in such form and containing such particulars as may be prescribed, of coal the grade of which has been determined in accordance with the provisions of section 4, but shall not enter in such list any coal in respect of which the colliery has, after the determination or decision of the Board under sub-section (1) or sub-section (2) of section 4, given notice in writing that such coal should not be entered in the grade list.

(2) The grade list shall be published in such manner as may be prescribed.

6. (1) On

# ACT No. XXXII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act to supplement the Oudh Courts Act, 1925.

U. P. Act IV  
of 1925.

WHEREAS it is expedient to supplement the Oudh Courts Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Oudh Courts (Supplementary) Act, 1925. Short title and commencement.

(2) It shall come into force on the date directed by the Governor General in Council under sub-section (3) of section 1 of the Oudh Courts Act, 1925.

U. P. Act IV  
of 1925.

2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

### THE SCHEDULE.

#### ENACTMENTS AMENDED.

(See section 2.)

Year.	No.	Short title.	Amendment.
1866	XXVII	The Indian Trustees Act, 1866.	In the definition of High Court in section 2 after "cap. 104" the words "and also the Chief Court of Oudh" shall be inserted.
"	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	In the definition of High Court in section 1 after "c. 104" the words "and includes the Chief Court of Oudh" shall be inserted.
1869	IV	The Indian Divorce Act, 1869.	(1) In clause (1) of section 3 after the word "Rangoon" the words "in Oudh—the Chief Court of Oudh" shall be inserted.  (2) In clause (2) of section 3 after the words "Regulation provinces" the words "and in Oudh" shall be inserted, and after the words "other than" the word "Oudh" shall be inserted.

Price 1 anna or 1½ d.]

1

Oudh Courts (Supplementary). [ACT XXXII OF 1925.]

Year.	No.	Short title.	Amendment.
1875	XVIII	The Indian Law Reports Act, 1875.	(1) In the preamble after the word and figures "chapter 104" the words "and by the Chief Court of Oudh" shall be inserted.  (2) In section 3 after the words "High Courts" the words "or by the Chief Court of Oudh" shall be inserted.
1879	XVIII	The Legal Practitioners Act, 1879.	In sub-section (4) of section 41 after the word "and" the words "except in the case of the Chief Court of Oudh" shall be inserted.
1890	IX	The Indian Railways Act, 1890.	In sub-section (3) of section 126 after the words "Chief Justice" the words "or in the case of the Chief Court of Oudh, the Chief Judge" shall be inserted.
1898	V	The Code of Criminal Procedure, 1898.	(1) In clause (j) of sub-section (1) of section 4 after the word "Rangoon" the words "the Chief Court of Oudh" shall be inserted, and the word "Oudh" after the word "Provinces" shall be omitted.  (2) In section 236 after the word "includes" the words "the Chief Court of Oudh" shall be inserted, and the word "Oudh" after the word "Provinces" shall be omitted.  (3) In sub-section (1) of section 364 after the word "Charter" the words "or the Chief Court of Oudh" shall be inserted.  (4) In section 365 after the word "Charter" the words "and the Chief Court of Oudh" shall be inserted.
1899	II	The Indian Stamp Act, 1899.	For clause (b) of sub-section (1) of section 57 the following shall be substituted, namely:— "(b) (i) if it arises in Agra or in Ajmer— to the High Court of Judicature at Allahabad; (ii) if it arises in Oudh—to the Chief Court of Oudh;"
1908	V	The Code of Civil Procedure, 1908.	(1) In section 122 after the figures "1915" the words "and the Chief Court of Oudh" shall be inserted.  (2) In sub-section (1) of section 123 after the words "High Courts" the words "and of the Chief Court" shall be inserted.

# ACT No. XXXIII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act to amend the Criminal Tribes Act, 1924.

**W**HEREAS it is expedient to amend the Criminal Tribes Act, 1924, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Criminal Tribes (Amendment) Act, 1925. Short title.

2. Section 10 of the Criminal Tribes Act, 1924, shall be re-numbered sub-section (1) of section 10, and to the said section the following sub-sections shall be added, namely:— Amendment of section 10, Act VI of 1924.

“(2) Where a registered member of a criminal tribe in respect of which the Local Government has issued a notification under sub-section (1) changes his place of residence to a district other than that in which he has been registered (whether in the same province or not), or is for the time being in a district of a province other than that by the Local Government of which the said notification was issued, the provisions of this Act and of the rules made thereunder shall apply to him as if in pursuance of a direction made under section 4 he had been registered in that district; and where that district is in a province other than that by the Local Government of which the notifications under section 3 and sub-section (1) of this section were issued in respect of such criminal tribe, as if the said notifications had been issued by the Local Government of such other province.

“(3) Where any such registered member changes his place of residence to a district other than that in which he has been registered (whether in the same province or not), the relevant entry in the register shall be transferred to the Superintendent of Police of that district.”

*Price 1 anna or 1½d.]*

MGIPC—L—1.76—6.11.25—13,500.

ACT NO. XXXII OF 1937

Enacted by the Legislature of the State of Tennessee

Chapter 100, Acts of 1937

The following text is extremely faint and largely illegible due to the quality of the scan. It appears to be the main body of the legislative act, containing several paragraphs of text.

W

Approved this 10th day of March, 1937

Governor

Comptroller

Clerk

# ACT No. XXXIV OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act to amend the Cotton Transport Act, 1923.

III of 1923. **W**HEREAS it is expedient to amend the Cotton Transport Act, 1923, for the purpose hereinafter appearing; It is hereby enacted as follows:—

**1.** This Act may be called the Cotton Transport (Amendment) Act, 1925. Short title.

III of 1923. **2.** In clause (g) of section 2 of the Cotton Transport Act, 1923 (hereinafter referred to as the said Act), after the word "prohibited" the words "wholly or partly" shall be inserted. Amendment of section 2, Act III of 1923.

**3.** In section 3 of the said Act, in sub-section (1) after the words "into that area" the words "by rail, road, river and sea, or by any one or more of such routes", and in sub-section (2) after the words "import of which" and the words "for the import" the words "by rail" shall be inserted. Amendment of section 3, Act III of 1923.

**4.** In section 4 of the said Act, in sub-section (1) after the words "import of the cotton" and in sub-section (3) after the words "the import" the words "by rail" shall be inserted. Amendment of section 4, Act III of 1923.

**5.** In sub-section (1) of section 5 of the said Act, after the words "import of which" and the words "import of the cotton" the words "by rail" shall be inserted. Amendment of section 5, Act III of 1923.

**6.** In clause (a) of sub-section (1) of section 7 of the said Act, after the word "prohibited" the words "wholly or partly" shall be inserted. Amendment of section 7, Act III of 1923.

Price 1 anna or 1½d.]

MGIPC—L—1-77—7-11-25—7,500.

ACT N. XXIV. DE 1933



# ACT No. XXXV OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

**An Act to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924.**

**W**HEREAS it is expedient to supplement by legislation in the Indian Legislature certain provisions of the Madras Children Act, 1920; of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Madras, Bengal and Bombay Children (Supplementary) Act, 1925. Short title.

2. The Madras Children Act, 1920, the Bengal Children Act, 1922, and the Bombay Children Act, 1924, shall, so far as regards the appellate and revisional jurisdiction conferred by the said Acts on the High Courts of Judicature at Madras, at Fort William in Bengal and at Bombay, respectively, be as valid as if the said Acts had been passed by the Indian Legislature.

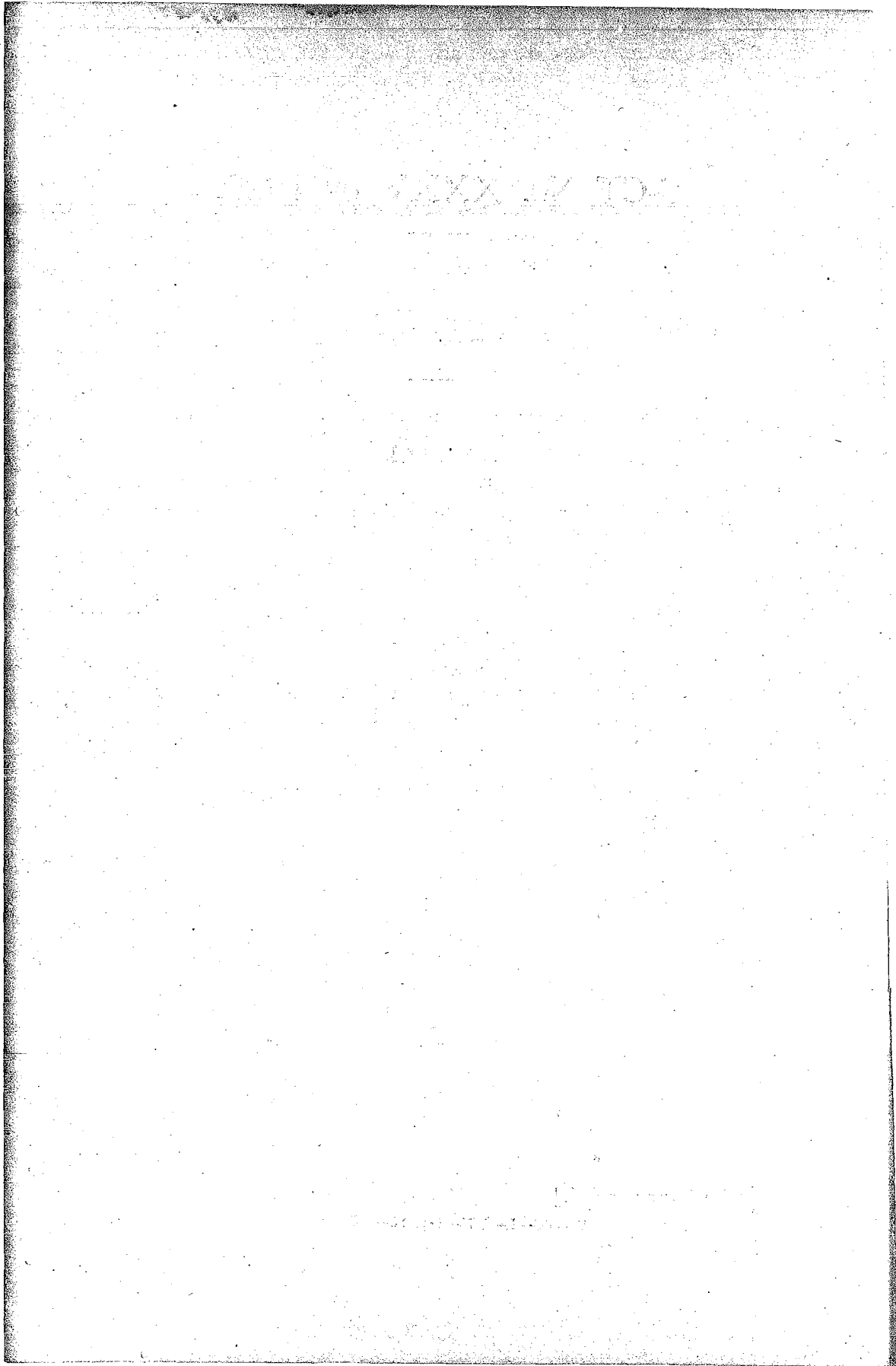
Mad. Act IV of 1920.  
Ben. Act II of 1922.  
Bom. Act XIII of 1924.

Mad. Act IV of 1920.  
Ben. Act II of 1922.  
Bom. Act XIII of 1924.

Validation of certain provisions of Madras Children Act, 1920, Bengal Children Act, 1922, and Bombay Children Act, 1924.

Price 1 anna or 1½d.]

MGIPC—L—1-78—6-11-25—4,500.



# ACT No. XXXVI OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act further to amend the Indian Ports Act, 1908.

XV of 1908.

WHEREAS it is expedient further to amend the Indian Ports Act, 1908, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Ports (Amendment) Act, 1925. Short title.

XV of 1908.

2. (1) To sub-section (1) of section 31 of the Indian Ports Act, 1908, the following proviso shall be added, namely:— Amendment of section 31, Act XV of 1908.

“ Provided that the Governor General in Council may, by notification in the Gazette of India, direct that in any port specified in such notification the provisions of this sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified.”

(2) Sub-sections (4) and (5) of the said section are hereby repealed.

*Price 1 anna or 1½ d.]*

1910

1911

1912

1913

1914

1915

1916

1917

1918

1919

1920

1921

1922

1923

1924

1925

1926

1927

1928

1929

# ACT No. XXXVII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd  
September, 1925.)

## An Act to amend certain enactments and to repeal certain other enactments.

**W**HEREAS it is expedient that certain amendments should  
be made in the enactments specified in the First  
Schedule;

**AND** WHEREAS it is also expedient that certain enactments  
specified in the Second Schedule which are spent or have other-  
wise become unnecessary, or have ceased to be in force otherwise  
than by express specific repeal, should be expressly and specifi-  
cally repealed;

It is hereby enacted as follows:—

1. This Act may be called the Repealing and Amending Short title.  
Act, 1925.

2. The enactments specified in the First Schedule are hereby Amendment of  
certain enact-  
ments.  
amended to the extent and in the manner mentioned in the  
fourth column thereof.

3. The enactments specified in the Second Schedule are Repeal of  
certain  
enactments.  
hereby repealed to the extent mentioned in the fourth column  
thereof.

4. The repeal by this Act of any enactment shall not affect Savings.  
any Act or Regulation in which such enactment has been  
applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect  
or consequences of anything already done or suffered, or any  
right, title, obligation or liability already acquired, accrued or  
incurred, or any remedy or proceeding in respect thereof, or  
any release or discharge of or from any debt, penalty, obliga-  
tion, liability, claim or demand or any indemnity already  
granted, or the proof of any past act or thing;

nor

1

*Price 1 anna or 1½ d.]*

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

Year.	No.	Short title.	Amendments.
1882	II	The Indian Trusts Act, 1882.	In section 20, clause (c), for the word "Central" the word "Provincial" shall be substituted.
1898	XIII	The Burma Laws Act, 1898.	In the First Schedule, in the entry relating to the Code of Criminal Procedure, 1898 (V of 1898), in column 4, for the words "Upper Burma Criminal Justice Regulation, 1892" the words "Burma (Frontier Districts) Criminal Justice Regulation, 1925" shall be substituted.
1910	IX	The Indian Electricity Act, 1910.	In section 3, sub-section (2), clause (a), sub-clause (ii), for the words "Director of Military Works" the words "Engineer-in-Chief, Army Headquarters, India" shall be substituted.
1923	IV	The Indian Mines Act, 1923.	(1) In section 9, sub-section (2), for the words "in the manner provided by section 4 of the Indian Official Secrets Act, 1889" the words "with imprisonment for a term which may extend to one year, or with fine, or with both" shall be substituted.  (2) In section 13, for the words "owner, agent or manager" the words "owner or agent" shall be substituted.  (3) In section 30, clause (g), after the word "Act" the words "and of the regulations and rules" shall be inserted, and the words "the regulations, rules and" shall be omitted.
1923	VIII	The Workmen's Compensation Act, 1923.	In section 22, sub-section (2), clause (d), for the word "on" where it occurs for the second time the word "of" shall be substituted.
"	XIX	The Code of Civil Procedure (Amendment) Act, 1923.	In section 1, for the word and brackets "(Amendment)" the words and brackets "(Second Amendment)" shall be substituted.

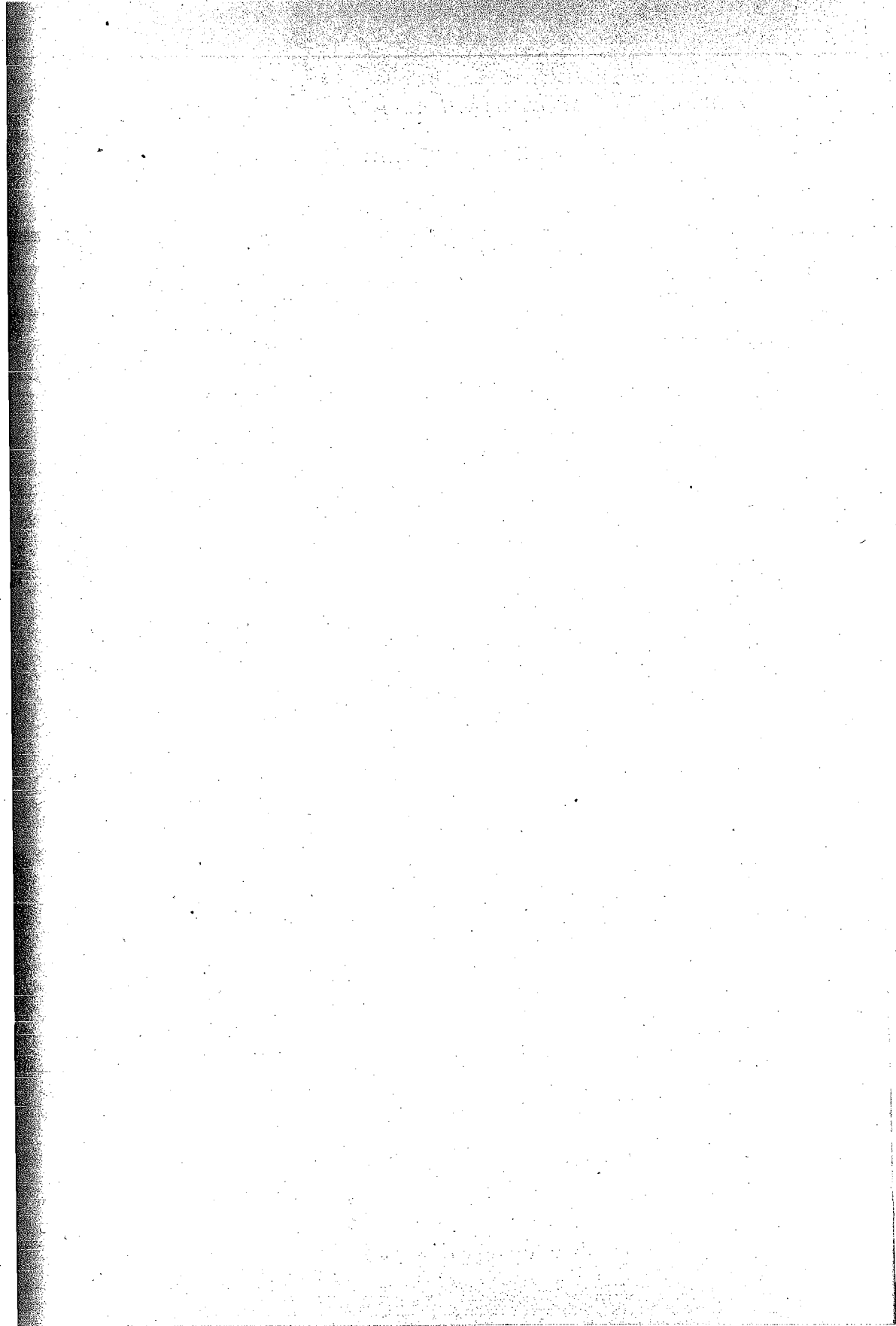
THE SECOND SCHEDULE.

## THE SECOND SCHEDULE.

## REPEALS.

*(See section 3.)*

Year.	No.	Short title.	Repeals.
1872	V . . .	The High Courts Jurisdiction (Sindh) Act, 1872.	Section 4.
1898	V . . .	The Code of Criminal Procedure, 1898.	(1) In column 1 of Schedule II, the figures "159." (2) In Schedule III, item (10) in Head I and items (15) and (16) in Head V.
„	XIII . .	The Burma Laws Act, 1898.	In the Third Schedule the entry relating to the Upper Burma Criminal Justice Regulation, 1892.





# ACT No. XXXVIII OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 23rd  
September, 1925.)*

## An Act further to amend the Transfer of Property Act, 1882.

IV of 1882.

WHEREAS it is expedient further to amend the Transfer of Property Act; 1882, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Transfer of Property (Amend- Short title.  
ment) Act, 1925.

IV of 1882.

2. In sub-section (1) of section 130 of the Transfer of Pro- Amendment of  
section 130,  
Act IV of 1882.  
perty Act, 1882, after the words " authorised agent and " the  
words and figures " notwithstanding anything contained in sec-  
tion 123 " shall be inserted.

*Printed 1 anna or 1½ d.]*

MGIPC--L--1-81--6-11-25--7,500.

NOTICE TO EMPLOYEES OF TOA

Dear Sirs,

Reference is made to the letter of the 15th/11/54.

Yours faithfully,

Yours faithfully,

Yours faithfully,

# ACT No. XXXIX OF 1925.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 30th  
September, 1925.)

## THE INDIAN SUCCESSION ACT.

### CONTENTS.

#### PART I.

##### Preliminary.

##### SECTIONS.

1. Short title.
2. Definitions.
3. Power of Local Government to exempt any race, sect or tribe in the territories administered by the Local Government from operation of Act.

#### PART II.

##### Of Domicile.

4. Application of Part.
5. Law regulating succession to deceased person's immoveable and moveable property, respectively.
6. One domicile only affects succession to moveables.
7. Domicile of origin of person of legitimate birth.
8. Domicile

Price As. 6 or 8d.]

SECTIONS.

8. Domicile of origin of illegitimate child.
9. Continuance of domicile of origin.
10. Acquisition of new domicile.
11. Special mode of acquiring domicile in British India.
12. Domicile not acquired by residence as representative of foreign Government, or as part of his family.
13. Continuance of new domicile.
14. Minor's domicile.
15. Domicile acquired by woman on marriage.
16. Wife's domicile during marriage.
17. Minor's acquisition of new domicile.
18. Lunatic's acquisition of new domicile.
19. Succession to moveable property in British India in absence of proof of domicile elsewhere.

---

**PART III.**

**Marriage.**

20. Interests and powers not acquired nor lost by marriage.
21. Effect of marriage between person domiciled and one not domiciled in British India.
22. Settlement of minor's property in contemplation of marriage.

---

**PART IV:**

**Of Consanguinity.**

23. Application of Part.
24. Kindred or consanguinity.
25. Lineal consanguinity.
26. Collateral consanguinity.
27. Persons

SECTIONS.

27. Persons held for purpose of succession to be similarly related to deceased.
28. Mode of computing of degrees of kindred.

**PART V.**

**Intestate Succession.**

**CHAPTER I.**

*Preliminary.*

29. Application of Part.
30. As to what property deceased considered to have died intestate.

**CHAPTER II.**

*Rules in cases of Intestates other than Parsis.*

31. Chapter not to apply to Parsis.
32. Devolution of such property.
33. Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred.
34. Where intestate has left no widow, and where he has left no kindred.
35. Rights of widower.

*Distribution where there are lineal descendants.*

36. Rules of distribution.
37. Where intestate has left child or children only.
38. Where intestate has left no child, but grandchild or grandchildren.
39. Where intestate has left only great-grand-children or remoter lineal descendants.
40. Where intestate leaves lineal descendants not all in same degree of kindred to him, and those through whom the more remote are descended are dead.

41. Rules

*Distribution where there are no lineal descendants.*

SECTIONS.

41. Rules of distribution where intestate has left no lineal descendants.
42. Where intestate's father living.
43. Where intestate's father dead, but his mother, brothers and sisters living.
44. Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister, living.
45. Where intestate's father dead and his mother and children of any deceased brother or sister living.
46. Where intestate's father dead, but his mother living and no brother, sister, nephew or niece.
47. Where intestate has left neither lineal descendant, nor father, nor mother.
48. Where intestate has left neither lineal descendant, nor parent, nor brother, nor sister.
49. Children's advancements not brought into hotchpot.

CHAPTER III.

*Special Rules for Parsi Intestates.*

50. Division of property among widow and children of intestate.
51. Division of property among widower and children of intestate.
52. Division of property amongst the children of male intestate who leaves no widow.
53. Division of property amongst the children of female intestate who leaves no widower.
54. Division of pre-deceased child's share of intestate's property among the widow or widower and issue of such child.
55. Division of property when the intestate leaves a widow or widower, but no lineal descendants.
56. Division of property when the intestate leaves neither widow nor widower, nor lineal descendants.

**PART VI.**

**PART VI.**

**Testamentary Succession.**

CHAPTER I.

*Introductory.*

SECTIONS.

- 57. Application of certain provisions of Part to a class of wills made by Hindus, etc.
- 58. General application of Part.

CHAPTER II.

*Of Wills and Codicils.*

- 59. Person capable of making wills.
- 60. Testamentary guardian.
- 61. Will obtained by fraud, coercion or importunity.
- 62. Will may be revoked or altered.

CHAPTER III.

*Of the Execution of unprivileged Wills.*

- 63. Execution of unprivileged wills.
- 64. Incorporation of papers by reference.

CHAPTER IV.

*Of privileged Wills.*

- 65. Privileged wills.
- 66. Mode of making, and rules for executing, privileged wills.

CHAPTER V.

*Of the Attestation, Revocation, Alteration and Revival of Wills.*

- 67. Effect of gift to attesting witness.
- 68. Witness

SECTIONS.

68. Witness not disqualified by interest or by being executor.
69. Revocation of will by testator's marriage.
70. Revocation of unprivileged will or codicil.
71. Effect of obliteration, interlineation or alteration in unprivileged will.
72. Revocation of privileged will or codicil.
73. Revival of unprivileged will.

CHAPTER VI.

*Of the Construction of Wills.*

74. Wording of will.
75. Inquiries to determine questions as to object or subject of will.
76. Misnomer or misdescription of object.
77. When words may be supplied.
78. Rejection of erroneous particulars in description of subject.
79. When part of description may not be rejected as erroneous.
80. Extrinsic evidence admissible in cases of patent ambiguity.
81. Extrinsic evidence inadmissible in case of patent ambiguity or deficiency.
82. Meaning of clause to be collected from entire will.
83. When words may be understood in restricted sense, and when in sense wider than usual.
84. Which of two possible constructions preferred.
85. No part rejected, if it can be reasonably construed.
86. Interpretation of words repeated in different parts of will.
87. Testator's intention to be effectuated as far as possible.
88. The last of two inconsistent clauses prevails.

89. Will



## SECTIONS.

89. Will or bequest void for uncertainty.
90. Words describing subject refer to property answering description at testator's death.
91. Power of appointment executed by general bequest.
92. Implied gift to objects of power in default of appointment.
93. Bequest to "heirs", etc., of particular person without qualifying terms.
94. Bequest to "representatives," etc., of particular person.
95. Bequest without words of limitation.
96. Bequest in alternative.
97. Effect of words describing a class added to bequest to person.
98. Bequest to class of persons under general description only.
99. Construction of terms.
100. Words expressing relationship denote only legitimate relatives or failing such relatives reputed legitimate.
101. Rules of construction where will purports to make two bequests to same person.
102. Constitution of residuary legatee.
103. Property to which residuary legatee entitled.
104. Time of vesting legacy in general terms.
105. In what case legacy lapses.
106. Legacy does not lapse if one of two joint legatees die before testator.
107. Effect of words showing testator's intention to give distinct shares.
108. When lapsed share goes as undisposed of.
109. When bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.
110. Bequest to A for benefit of B does not lapse by A's death.
111. Survivorship in case of bequest to described class.

CHAPTER VII.

*Of void Bequests.*

SECTIONS.

112. Bequest to person by particular description, who is not in existence at testator's death.
113. Bequest to person not in existence at testator's death, subject to prior bequest.
114. Rule against perpetuity.
115. Bequest to a class some of whom may come under rules in sections 113 and 114.
116. Bequest to take effect on failure of bequest void under section 113, 114 or 115.
117. Effect of direction for accumulation.
118. Bequest to religious or charitable uses.

CHAPTER VIII.

*Of the vesting of Legacies.*

119. Date of vesting of legacy when payment or possession postponed.
120. Date of vesting when legacy contingent upon specified uncertain event.
121. Vesting of interest in bequest to such members of a class as shall have attained particular age.

CHAPTER IX.

*Of Onerous Bequests.*

122. Onerous bequests.
123. One of two separate and independent bequests to same person may be accepted, and other refused.

CHAPTER X.

*Of Contingent Bequests.*

124. Bequest contingent upon specified uncertain event, no time being mentioned for its occurrence.
125. Bequest

## SECTIONS.

125. Bequest to such of certain persons as shall be surviving at some period not specified.

## CHAPTER XI.

*Of Conditional Bequests.*

126. Bequest upon impossible condition.  
127. Bequest upon illegal or immoral condition.  
128. Fulfilment of condition precedent to vesting of legacy.  
129. Bequest to A and on failure of prior bequest to B.  
130. When second bequest not to take effect on failure of first.  
131. Bequest over, conditional upon happening or not happening of specified uncertain event.  
132. Condition must be strictly fulfilled.  
133. Original bequest not affected by invalidity of second.  
134. Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.  
135. Such condition must not be invalid under section 120.  
136. Result of legatee rendering impossible or indefinitely postponing act for which no time specified, and on non-performance of which subject-matter to go over.  
137. Performance of condition, precedent or subsequent, within specified time. Further time in case of fraud.

## CHAPTER XII.

*Of Bequests with Directions as to Application of Enjoyment.*

138. Direction that fund be employed in particular manner following absolute bequest of same to or for benefit of any person.  
139. Direction that mode of enjoyment of absolute bequest is to be restricted, to secure specified benefit for legatee.

140. Bequest

SECTIONS.

140. Bequest of fund for certain purposes, some of which cannot be fulfilled.

CHAPTER XIII.

*Of Bequests to an Executor.*

141. Legatee named as executor cannot take unless he shows intention to act as executor.

CHAPTER XIV.

*Of Specific Legacies.*

142. Specific legacy defined.  
143. Bequest of certain sum where stocks, etc., in which invested are described.  
144. Bequest of stock where testator had, at date of will, equal or greater amount of stock of same kind.  
145. Bequest of money where not payable until part of testator's property disposed of in certain way.  
146. When enumerated articles not deemed specifically bequeathed.  
147. Retention, in form, of specific bequest to several persons in succession.  
148. Sale and investment of proceeds of property bequeathed to two or more persons in succession.  
149. Where deficiency of assets to pay legacies, specific legacy not to abate with general legacies.

CHAPTER XV.

*Of Demonstrative Legacies.*

150. Demonstrative legacy defined.  
151. Order of payment when legacy directed to be paid out of fund the subject of specific legacy.

CHAPTER XVI.

## CHAPTER XVI.

*Of Ademption of Legacies.*

## SECTIONS.

152. Ademption explained.
153. Non-ademption of demonstrative legacy.
154. Ademption of specific bequest of right to receive something from third party.
155. Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.
156. Ademption *pro tanto* by testator's receipt of portion of entire fund of which portion has been specifically bequeathed.
157. Order of payment where portion of fund specifically bequeathed to one legatee, and legacy charged on same fund to another; and testator having received portion of that fund, remainder insufficient to pay both legacies.
158. Ademption where stock, specifically bequeathed, does not exist at testator's death.
159. Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.
160. Non-ademption of specific bequest of goods described as connected with certain place, by reason of removal.
161. When removal of thing bequeathed does not constitute ademption.
162. When thing bequeathed is a valuable to be received by testator from third person; and testator himself, or his representative, receives it.
163. Change by operation of law of subject of specific bequest between date of will and testator's death.
164. Change of subject without testator's knowledge.
165. Stock specifically bequeathed lent to third party on condition that it be replaced.
166. Stock specifically bequeathed sold but replaced, and belonging to testator at his death.

## CHAPTER XVII.

CHAPTER XVII.

*Of the payment of liabilities in respect of the subject of a bequest.*

SECTIONS.

167. Non-liability of executor to exonerate specific legatees.
168. Completion of testator's title to things bequeathed to be at cost of his estate.
169. Exoneration of legatee's immoveable property for which land revenue or rent payable periodically.
170. Exoneration of specific legatee's stock in joint stock company.

CHAPTER XVIII.

*Of Bequests of things described in General Terms.*

171. Bequest of thing described in general terms.

CHAPTER XIX.

*Of Bequests of the Interest or Produce of a Fund.*

172. Bequest of interest or produce of fund.

CHAPTER XX.

*Of Bequests of Annuities.*

173. Annuity created by will payable for life only unless contrary intention appears by will.
174. Period of vesting where will directs that annuity be provided out of proceeds of property, or out of property generally or where money bequeathed to be invested in purchase of annuity.
175. Abatement of annuity.
176. Where gift of annuity and residuary gift, whole annuity to be first satisfied.

CHAPTER XXI.

CHAPTER XXI.

*Of Legacies to Creditors and Portioners.*

SECTIONS.

- 177. Creditor *primâ facie* entitled to legacy as well as debt.
- 178. Child *primâ facie* entitled to legacy as well as portion.
- 179. No ademption by subsequent provision for legatee.

CHAPTER XXII.

*Of Election.*

- 180. Circumstances in which election takes place.
- 181. Devolution of interest relinquished by owner.
- 182. Testator's belief as to his ownership immaterial.
- 183. Bequest for man's benefit how regarded for purpose of election.
- 184. Person deriving benefit indirectly not put to election.
- 185. Person taking in individual capacity under will may in other character elect to take in opposition.
- 186. Exception to provisions of last six sections.
- 187. When acceptance of benefit given by will constitutes election to take under will.
- 188. Circumstances in which knowledge or waiver is presumed or inferred.
- 189. When testator's representatives may call upon legatee to elect.
- 190. Postponement of election in case of disability.

CHAPTER XXIII.

*Of Gifts in Contemplation of Death.*

- 191. Property transferable by gift made in contemplation of death.

PART VII.

**PART VII.**

**Protection of Property of Deceased.**

**SECTIONS.**

192. Person claiming right by succession to property of deceased may apply for relief against wrongful possession.
193. Inquiry made by Judge.
194. Procedure.
195. Appointment of curator pending determination of proceeding.
196. Powers conferable on curator.
197. Prohibition of exercise of certain powers by curators. Payment of debts, etc., to curator.
198. Curator to give security and may receive remuneration.
199. Report from Collector where estate includes revenue-paying land.
200. Institution and defence of suits.
201. Allowances to apparent owners pending custody by curator.
202. Accounts to be filed by curator.
203. Inspection of accounts and right of interested party to keep duplicate.
204. Bar to appointment of second curator for same property.
205. Limitation of time for application for curator.
206. Bar to enforcement of Part against public settlement or legal directions by deceased.
207. Court of Wards to be made curator in case of minors having property subject to its jurisdiction.
208. Saving of right to bring suit.
209. Effect of decision of summary proceeding.
210. Appointment of public curators.

**PART VIII.**



**PART VIII.**

**Representative Title to Property of Deceased on Succession.**

**SECTIONS.**

211. Character and property of executor or administrator as such.
212. Right to intestate's property.
213. Right as executor or legatee when established.
214. Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.
215. Effect on certificate of subsequent probate or letters of administration.
216. Grantee of probate or administration alone to sue, etc., until same revoked.

---

**PART IX.**

**Probate, Letters of Administration and Administration of Assets of Deceased.**

217. Application of Part.

**CHAPTER I.**

*Of Grant of Probate and Letters of Administration.*

218. To whom administration may be granted, where deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.
219. Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.
220. Effect of letters of administration.
221. Acts not validated by administration.
222. Probate only to appointed executor.
223. Persons to whom probate cannot be granted.

224. Grant

SECTIONS.

224. Grant of probate to several executors simultaneously or at different times.
225. Separate probate of codicil discovered after grant of probate.
226. Accrual of representation to surviving executor.
227. Effect of probate.
228. Administration, with copy annexed, of authenticated copy of will proved abroad.
229. Grant of administration where executor has not renounced.
230. Form and effect of renunciation of executorship.
231. Procedure where executor renounces or fails to accept within time limited.
232. Grant of administration to universal residuary legatees.
233. Right to administration of representative of deceased residuary legatee.
234. Grant of administration where no executor, nor residuary legatee, nor representative of such legatee.
235. Citation before grant of administration to legatee other than universal or residuary.
236. To whom administration may not be granted.

CHAPTER II.

OF LIMITED GRANTS.

*Grants limited in duration.*

237. Probate of copy or draft of lost will.
238. Probate of contents of lost or destroyed will.
239. Probate of copy where original exists.
240. Administration until will produced.

*Grants for the use and benefit of others having right.*

241. Administration, with will annexed, to attorney of absent executor.
242. Administration

SECTIONS.

- 242. Administration, with will annexed, to attorney of absent person who, if present, would be entitled to administer.
- 243. Administration to attorney of absent person entitled to administer in case of intestacy.
- 244. Administration during minority of sole executor or residuary legatee.
- 245. Administration during minority of several executors or residuary legatees.
- 246. Administration for use and benefit of lunatic or minor.
- 247. Administration *pendente lite*.

*Grants for special purposes.*

- 248. Probate limited to purpose specified in will.
- 249. Administration, with will annexed, limited to particular purpose.
- 250. Administration limited to property in which person has beneficial interest.
- 251. Administration limited to suit.
- 252. Administration limited to purpose of becoming party to suit to be brought against administrator.
- 253. Administration limited to collection and preservation of deceased's property.
- 254. Appointment, as administrator, of person other than one who, in ordinary circumstances, would be entitled to administration.

*Grants with exception.*

- 255. Probate or administration, with will annexed, subject to exception.
- 256. Administration with exception.

*Grants of the rest.*

- 257. Probate or administration of rest.

*Grant of effects unadministered.*

- 258. Grant of effects unadministered.

259. Rules

SECTIONS.

- 259. Rules as to grants of effects unadministered.
- 260. Administration when limited grant expired and still some part of estate unadministered.

CHAPTER III.

*Alteration and Revocation of Grants.*

- 261. What errors may be rectified by Court.
- 262. Procedure where codicil discovered after grant of administration with will annexed.
- 263. Revocation or annulment for just cause.

CHAPTER IV.

*Of the practice in granting and revoking Probates and Letters of Administration.*

- 264. Jurisdiction of District Judge in granting and revoking probates, etc.
- 265. Power to appoint Delegate of District Judge to deal with non-contentious cases.
- 266. District Judge's powers as to grant of probate and administration.
- 267. District Judge may order person to produce testamentary papers.
- 268. Proceedings of District Judge's Court in relation to probate and administration.
- 269. When and how District Judge to interfere for protection of property.
- 270. When probate or administration may be granted by District Judge.
- 271. Disposal of application made to Judge of district in which deceased had no fixed abode.
- 272. Probate and letters of administration may be granted by Delegate.
- 273. Conclusiveness of probate or letters of administration.
- 274. Transmission

## SECTIONS:

274. Transmission to High Courts of certificate of grants under proviso to section 273.
275. Conclusiveness of application for probate or administration if properly made and verified.
276. Petition for probate.
277. In what cases translation of will to be annexed to petition. Verification of translation by person other than Court translator.
278. Petition for letters of administration.
279. Addition to statement in petition, etc., for probate or letters of administration in certain cases.
280. Petition for probate, etc., to be signed and verified.
281. Verification of petition for probate, by one witness to will.
282. Punishment for false averment in petition or declaration.
283. Powers of District Judge.
284. Caveats against grant of probate or administration. Form of caveat.
285. After entry of caveat no proceeding taken on petition until after notice to caveator.
286. District Delegate when not to grant probate or administration.
287. Power to transmit statement to District Judge in doubtful cases where no contention.
288. Procedure where there is contention, or District Delegate thinks probate or letters of administration should be refused in his Court.
289. Grant of probate to be under seal of Court.
290. Grant of letters of administration to be under seal of Court.
291. Administration-bond.
292. Assignment of administration-bond.
293. Time for grant of probate and administration.
294. Filing of original wills of which probate or administration with will annexed granted.
295. Procedure in contentious cases.
296. Surrender

SECTIONS.

296. Surrender of revoked probate or letters of administration.
297. Payment to executor or administrator before probate or administration revoked.
298. Power to refuse letters of administration.
299. Appeals from orders of District Judge.
300. Concurrent jurisdiction of High Court.
301. Removal of executor or administrator and provision for successor.
302. Directions to executor or administrator.

CHAPTER V.

*Of executors of their own wrong.*

303. Executor of his own wrong.
304. Liability of executor of his own wrong.

CHAPTER VI.

*Of the powers of an Executor or Administrator.*

305. In respect of causes of action surviving deceased, and rents due at death.
306. Demands and rights of action of or against deceased survive to and against executor or administrator.
307. Power of executor or administrator to dispose of property.
308. General powers of administration.
309. Commission or agency charges.
310. Purchase by executor or administrator of deceased's property.
311. Powers of several executors or administrators exercisable by one.
312. Survival of powers on death of one of several executors or administrators.
313. Powers of administrator of effects unadministered.

314. Powers

SECTIONS.

314. Powers of administrator during minority.

315. Powers of married executrix or administratrix.

CHAPTER VII.

*Of the Duties of an Executor or Administrator.*

316. As to deceased's funeral.

317. Inventory and account.

318. Inventory to include property in any part of British India in certain cases.

319. As to property of, and debt owing to, deceased.

320. Expenses to be paid before all debts.

321. Expenses to be paid next after such expenses.

322. Wages for certain services to be next paid, and then other debts.

323. Save as aforesaid, all debts to be paid equally and rateably.

324. Application of moveable property to payment of debts where domicile not in British India.

325. Debts to be paid before legacies.

326. Executor or administrator not bound to pay legacies without indemnity.

327. Abatement of general legacies.

328. Non-abatement of specific legacy when assets sufficient to pay debts.

329. Right under demonstrative legacy when assets sufficient to pay debts and necessary expenses.

330. Rateable abatement of specific legacies.

331. Legacies treated as general for purpose of abatement.

CHAPTER VIII.

*Of assent to a legacy by Executor or Administrator.*

332. Assent necessary to complete legatee's title.

333. Effect of executor's assent to specific legacy.

334. Conditional

SECTIONS.

- 334. Conditional assent.
- 335. Assent of executor to his own legacy.
- 336. Effect of executor's assent.
- 337. Executor when to deliver legacies.

CHAPTER IX.

*Of the Payment and Apportionment of Annuities.*

- 338. Commencement of annuity when no time fixed by will.
- 339. When annuity, to be paid quarterly or monthly, first falls due.
- 340. Dates of successive payments when first payment directed to be made within given time or on day certain: death of annuitant before date of payment.

CHAPTER X.

*Of the Investment of Funds to provide for Legacies.*

- 341. Investment of sum bequeathed where legacy, not specific, given for life.
- 342. Investment of general legacy to be paid at future time: disposal of intermediate interest.
- 343. Procedure when no fund charged with, or appropriated to, annuity.
- 344. Transfer to residuary legatee of contingent bequest.
- 345. Investment of residue bequeathed for life, without direction to invest in particular securities.
- 346. Investment of residue bequeathed for life, with direction to invest in specified securities.
- 347. Time and manner of conversion and investment.
- 348. Procedure where minor entitled to immediate payment or possession of bequest, and no direction to pay to person on his behalf.

CHAPTER XI.



CHAPTER XI.

*Of the Produce and Interest of Legacies.*

SECTIONS.

- 349. Legatee's title to produce of specific legacy.
- 350. Residuary legatee's title to produce of residuary fund.
- 351. Interest when no time fixed for payment of general legacy.
- 352. Interest when time fixed.
- 353. Rate of interest.
- 354. No interest on arrears of annuity within first year after testator's death.
- 355. Interest on sum to be invested to produce annuity.

CHAPTER XII.

*Of the Refunding of Legacies.*

- 356. Refund of legacy paid under Court's orders.
- 357. No refund if paid voluntarily.
- 358. Refund when legacy has become due on performance of condition within further time allowed under section 137.
- 359. When each legatee compellable to refund in proportion.
- 360. Distribution of assets.
- 361. Creditor may call upon legatee to refund.
- 362. When legatee, not satisfied or compelled to refund under section 361, cannot oblige one paid in full to refund.
- 363. When unsatisfied legatee must first proceed against executor, if solvent.
- 364. Limit to refunding of one legatee to another.
- 365. Refunding to be without interest.
- 366. Residue after usual payments to be paid to residuary legatee.

367. Transfer

SECTIONS.

367. Transfer of assets from British India to executor or administrator in country of domicile for distribution.

CHAPTER XIII.

*Of the Liability of an Executor or Administrator for Devastation.*

368. Liability of executor or administrator for devastation.  
369. Liability of executor or administrator for neglect to get in any part of property.

---

PART X.

Succession Certificates.

370. Restriction on grant of certificates under this Part.  
371. Court having jurisdiction to grant certificate.  
372. Application for certificate.  
373. Procedure on application.  
374. Contents of certificate.  
375. Requisition of security from grantee of certificate.  
376. Extension of certificate.  
377. Forms of certificate and extended certificate.  
378. Amendment of certificate in respect of powers as to securities.  
379. Mode of collecting Court-fees on certificates.  
380. Local extent of certificate.  
381. Effect of certificate.  
382. Effect of certificate granted or extended by British representative in Foreign State.  
383. Revocation of certificate.  
384. Appeal.  
385. Effect on certificate of previous certificate, probate or letters of administration.  
386. Validation

**SECTIONS.**

- 386. Validation of certain payments made in good faith to holder of invalid certificate.
- 387. Effect of decisions under this Act, and liability of holder of certificate thereunder.
- 388. Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.
- 389. Surrender of superseded and invalid certificates.
- 390. Provisions with respect to certificates under Bombay Regulation VIII of 1827.

---

**PART XI.**

**Miscellaneous.**

- 391. Saving.
- 392. Repeals.

---

**SCHEDULES.**

SCHEDULE I.—Table of Consanguinity.

SCHEDULE II.—

*Part I.*—Order of next-of-kin in case of Parsi intestates referred to in section 55 (b).

*Part II.*—Order of next-of-kin in case of Parsi intestates referred to in section 56.

SCHEDULE III.—Provisions of Part VI applicable to certain Wills and Codicils described in section 57.

SCHEDULE IV.—Form of Certificate.

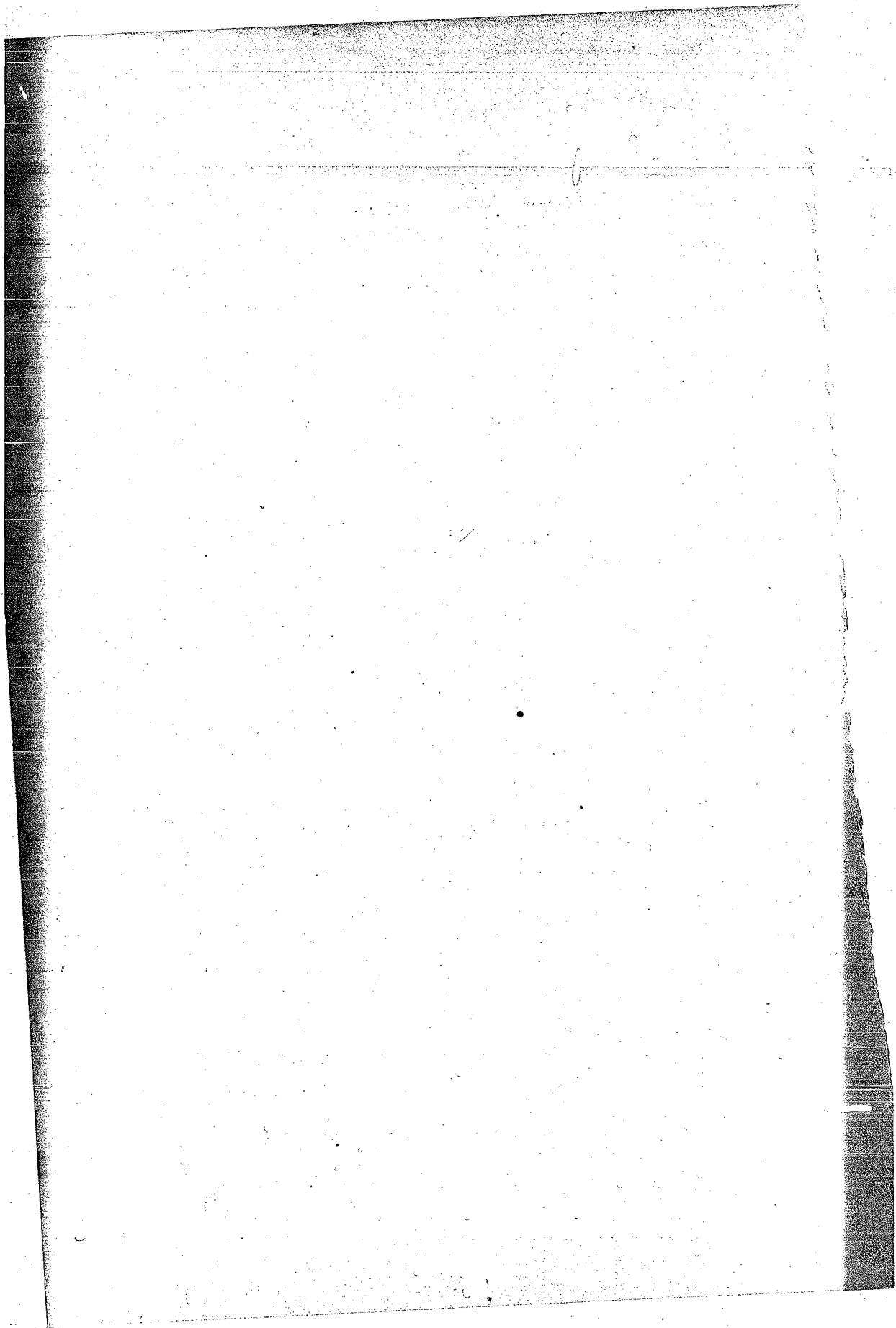
SCHEDULE V.—Form of Caveat.

SCHEDULE VI.—Form of Probate.

SCHEDULE VII.—Form of Letters of Administration.

SCHEDULE VIII.—Forms of Certificate and Extended Certificate.

SCHEDULE IX.—Enactments. Repealed.



**An Act to consolidate the law applicable to intestate and testamentary succession in British India.**

**W**HEREAS it is expedient to consolidate the law applicable to intestate and testamentary succession in British India; It is hereby enacted as follows:—

**PART I.**

**Preliminary.**

1. This Act may be called the Indian Succession Act, 1925. Short title.

2. In this Act, unless there is anything repugnant in the Definitions. subject or context,—

- (a) “ administrator ” means a person appointed by competent authority to administer the estate of a deceased person when there is no executor;
- (b) “ codicil ” means an instrument made in relation to a will, and explaining, altering or adding to its dispositions, and shall be deemed to form part of the will;
- (c) “ executor ” means a person to whom the execution of the last will of a deceased person is, by the testator’s appointment, confided;
- (d) “ Indian Christian ” means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion;
- (e) “ minor ” means any person subject to the Indian Majority Act, 1875, who has not attained his majority within the meaning of that Act, and any other person who has not completed the age of eighteen years; and “ minority ” means the status of any such person;
- (f) “ probate ” means the copy of a will certified under the seal of a Court of competent jurisdiction with a grant of administration to the estate of the testator;
- (g) “ province ” includes any division of British India having a Court of the last resort; and
- (h) “ will ”

(h) "will" means the legal declaration of the intention of a testator with respect to his property which he desires to be carried into effect after his death.

Power of Local Government to exempt any race, sect or tribe in the territories administered by the Local Government from operation of Act.

3. (1) The Local Government may, by notification in the local official Gazette, either retrospectively from the sixteenth day of March, 1865, or prospectively, exempt from the operation of any of the following provisions of this Act, namely, sections 5 to 49, 58 to 191, 212, 213 and 215 to 369, the members of any race, sect or tribe in the province, or of any part of such race, sect or tribe, to whom the Local Government considers it impossible or inexpedient to apply such provisions or any of them mentioned in the order.

(2) The Local Government may, by a like notification, revoke any such order, but not so that the revocation shall have retrospective effect.

(3) Persons exempted under this section or exempted from the operation of any of the provisions of the Indian Succession Act, 1865, under section 332 of that Act are in this Act referred to as "exempted persons." X of 1865.

## PART II.

### Of Domicile.

Application of Part.

4. This Part shall not apply if the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina.

Law regulating succession to deceased person's immoveable and moveable property, respectively.

5. (1) Succession to the immoveable property in British India of a person deceased shall be regulated by the law of British India, wherever such person may have had his domicile at the time of his death.

(2) Succession to the moveable property of a person deceased is regulated by the law of the country in which such person had his domicile at the time of his death.

#### Illustrations.

(i) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(ii) A, an Englishman, having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

G. A

6. A person can have only one domicile for the purpose of the succession to his moveable property.

One domicile only affects succession to moveables.

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Domicile of origin of person of legitimate birth.

*Illustration.*

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Domicile of origin of illegitimate child.

9. The domicile of origin prevails until a new domicile has been acquired.

Continuance of domicile of origin.

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Acquisition of new domicile.

*Explanation.*—A man is not to be deemed to have taken up his fixed habitation in British India merely by reason of his residing there in His Majesty's civil or military service, or in the exercise of any profession or calling.

*Illustrations.*

(i) A, whose domicile of origin is in England, proceeds to British India, where he settles as a barrister or a merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(ii) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(iii) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the Government of India for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(iv) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(v) A, having gone to reside in British India in the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(vi) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(vii) A,

(vii) A, having come to Calcutta in the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring domicile in British India.

11. Any person may acquire a domicile in British India by making and depositing in some office in British India, appointed in this behalf by the Local Government, a declaration in writing under his hand of his desire to acquire such domicile; provided that he has been resident in British India for one year immediately preceding the time of his making such declaration.

Domicile not acquired by residence as representative of foreign Government, or as part of his family.

12. A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with such first-mentioned person as part of his family, or as a servant.

Continuance of new domicile.

13. A new domicile continues until the former domicile has been resumed or another has been acquired.

Minor's domicile.

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

*Exception.*—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of His Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by woman on marriage.

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

16. A wife's domicile during her marriage follows the domicile of her husband.

*Exception.*—The wife's domicile no longer follows that of her husband if they are separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Minor's acquisition of new domicile.

17. Save as hereinbefore otherwise provided in this Part, a person cannot, during minority, acquire a new domicile.

Lunatic's acquisition of new domicile.

18. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to moveable property in British India in absence of proof of domicile elsewhere.

19. If a person dies leaving moveable property in British India, in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.



**PART III.****Marriage.**

**20.** (1) No person shall, by marriage, acquire any interest in the property of the person whom he or she marries or become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried.

Interests and powers not acquired nor lost by marriage.

(2) This section—

- (a) shall not apply to any marriage contracted before the first day of January, 1866;
- (b) shall not apply, and shall be deemed never to have applied, to any marriage one or both of the parties to which professed at the time of the marriage the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion.

**21.** If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

Effect of marriage between person domiciled and one not domiciled in British India.

**22.** (1) The property of a minor may be settled in contemplation of marriage, provided the settlement is made by the minor with the approbation of the minor's father, or, if the father is dead or absent from British India, with the approbation of the High Court.

Settlement of minor's property in contemplation of marriage.

(2) Nothing in this section or in section 21 shall apply to any will made or intestacy occurring before the first day of January, 1866, or to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina.

**PART IV.****Of Consanguinity.**

**23.** Nothing in this Part shall apply to any will made or intestacy occurring before the first day of January, 1866, or

Application of Part.

to

31

to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh, Jaina or Parsi.

Kindred or consanguinity.

24. Kindred or consanguinity is the connection or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

25. (1) Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather and great-grandfather, and so upwards in the direct ascending line; or between a man and his son, grandson, great-grandson and so downwards in the direct descending line.

(2) Every generation constitutes a degree, either ascending or descending.

(3) A person's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third degree, and so on.

Collateral consanguinity.

26. (1) Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other.

(2) For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is necessary to reckon upwards from the person deceased to the common stock and then downwards to the collateral relative, a degree being allowed for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to deceased.

27. For the purpose of succession, there is no distinction—

- (a) between those who are related to a person deceased through his father, and those who are related to him through his mother; or
- (b) between those who are related to a person deceased by the full blood, and those who are related to him by the half blood; or
- (c) between those who were actually born in the lifetime of a person deceased and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing of degrees of kindred.

28. Degrees of kindred are computed in the manner set forth in the table of kindred set out in Schedule I.

Illustrations.

*Illustrations.*

(i) The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor, the grandfather; and from him one of descent to the uncle, and another to the cousin-german, making in all four degrees.

(ii) A grandson of the brother and a son of the uncle, i.e., a great-nephew and a cousin-german, are in equal degree being each four degrees removed.

(iii) A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

## PART V.

## Intestate Succession.

## CHAPTER I.

*Preliminary.*

29. (1) This Part shall not apply to any intestacy occurring before the first day of January, 1866, or to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina. Application of Part.

(2) Save as provided in sub-section (1) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India in all cases of intestacy.

30. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect. As to what property deceased considered to have died intestate.

*Illustrations.*

(i) A has left no will. He has died intestate in respect of the whole of his property.

(ii) A has left a will, whereby he has appointed B his executor; but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(iv) A has bequeathed 1,000 rupees to B and 1,000 rupees to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000 rupees and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000 rupees.

## CHAPTER II.

## RULES IN CASES OF INTESTATES OTHER THAN PARSIS.

31. Nothing in this Chapter shall apply to Parsis.

32. The

Chapter not to apply to Parsis.

Devolution of such property.

**32.** The property of an intestate devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules hereinafter contained in this Chapter.

*Explanation.*—A widow is not entitled to the provision hereby made for her if by a valid contract made before her marriage, she has been excluded from her distributive share of her husband's estate.

Where intestate has left widow and lineal descendants, or widow and kindred only, or widow and no kindred.

**33.** Where the intestate has left a widow—

if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules hereinafter contained;

(b) if he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules hereinafter contained;

(c) if he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where intestate has left no widow, and where he has left no kindred.

**34.** Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules hereinafter contained; and, if he has left none who are of kindred to him, it shall go to the Crown.

Rights of widower.

**35.** A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property, if he dies intestate.

*Distribution where there are lineal descendants.*

Rules of distribution

**36.** The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants shall be those contained in sections 37 to 40.

Where intestate has left child or children only.

**37.** Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there is only one, or shall be equally divided among all his surviving children.

**38.** Where

38. Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild if there is only one, or shall be equally divided among all his surviving grandchildren.

Where intestate has left no child, but grandchild or grandchildren.

*Illustrations.*

(i) A has three children, and no more, John, Mary and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren will have one-ninth.

(ii) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

39. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where intestate has left only great-grandchildren or remoter lineal descendants.

40. (1) If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him.

Where intestate leaves lineal descendants not all in same degree of kindred to him, and those through whom the more remote are descended are dead.

(2) One of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

*Illustrations.*

(i) A had three children, John, Mary and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A, intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(ii) A

(ii) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild, and the remaining one-ninth is equally divided between the two great-grandchildren.

(iii) A has three children, John, Mary and Henry; John dies leaving four children; and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry, one-third to Mary's child, and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(iv) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and the posthumous child.

*Distribution where there are no lineal descendants.*

Rules of distribution where intestate has left no lineal descendants.

41. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) shall be those contained in sections 42 to 48.

Where intestate's father living.

42. If the intestate's father is living, he shall succeed to the property.

Where intestate's father dead but his mother, brothers and sisters living.

43. If the intestate's father is dead, but the intestate's mother is living and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

*Illustration.*

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother but not of his father. The mother takes one-fourth, each brother takes one-fourth and Mary, the sister of half blood, takes one-fourth.

Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister, living.

44. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

*Illustration.*

A, the intestate, leaves his mother, his brothers John and Henry, and also one child of a deceased sister, Mary, and two children of George, a deceased brother of the half blood who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each takes one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

45. If

45. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate's father dead and his mother and children of any deceased brother or sister living.

*Illustration.*

A, the intestate, leaves no brother or sister, but leaves his mother and one child of a deceased sister, Mary, and two children of a deceased brother, George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

46. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate's father dead, but his mother living and no brother, sister, nephew or niece.

47. Where the intestate has left neither lineal descendant, nor father, nor mother, the property shall be divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor father, nor mother.

48. Where the intestate has left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Where intestate has left neither lineal descendant, nor parent, nor brother, nor sister.

*Illustrations.*

(i) A, the intestate, has left a grandfather, and a grandmother and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(ii) A, the intestate, has left a great-grandfather, or a great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(iii) A, the intestate, left a great-grandfather, an uncle and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(iv) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They will each take one-eleventh of the property.

49. Where

Children's advancements not brought into hotchpot.

49. Where a distributive share in the property of a person who has died intestate is claimed by a child, or any descendant of a child, of such person, no money or other property which the intestate may, during his life, have paid, given or settled to, or for the advancement of, the child by whom or by whose descendant the claim is made shall be taken into account in estimating such distributive share.

CHAPTER III.

SPECIAL RULES FOR PARSİ INTESTATES.

Division of property among widow and children of intestate.

50. Where a Parsi dies leaving a widow and children, the property of which he dies intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of intestate.

51. Where a female Parsi dies leaving a widower and children, the property of which she dies intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

Division of property amongst the children of male intestate who leaves no widow.

52. When a Parsi dies leaving children but no widow, the property of which he dies intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female intestate who leaves no widower.

53. When a female Parsi dies leaving children but no widower, the property of which she dies intestate shall be divided amongst the children in equal shares.

Division of pre-deceased child's share of intestate's property among the widow or widower and issue of such child.

54. If any child of a Parsi intestate has died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the intestate's death in such manner as if such deceased child had died immediately after the intestate's death.

Division of property when the intestate leaves a widow or widower, but no lineal descendants.

55. Where a Parsi dies leaving a widow or widower, but without leaving any lineal descendants,—

- (a) his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property in respect of which he or she dies intestate, and the widow or widower shall take the other moiety, provided that, where both the father and



and the mother of the intestate survive him or her, the father's share shall be double the share of the mother;

- (b) where neither the father nor the mother of the intestate survives him or her, the intestate's relatives on the father's side, in the order specified in Part I of Schedule II, shall take the moiety which the father and the mother would have taken if they had survived the intestate. The next-of-kin standing first in Part I of that Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity;
- (c) where there are no relatives on the father's side, the intestate's widow or widower shall take the whole.

56. When a Parsi dies leaving neither lineal descendants nor a widow or widower, his or her next-of-kin, in the order set forth in Part II of Schedule II, shall be entitled to succeed to the whole of the property as to which he or she dies intestate. The next-of-kin standing first in Part II of the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

Division of property when the intestate leaves neither widow nor lineal descendants.

## PART VI.

### Testamentary Succession.

#### CHAPTER I.

##### *Introductory.*

57. The provisions of this Part which are set out in Schedule III shall, subject to the restrictions and modifications specified therein, apply—

Application of certain provisions of Part to a class of wills made by Hindus, etc.

- (a) to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina, on or after the first day of September,

ber, 1870, within the territories which at the said date were subject to the Lieutenant-Governor of Bengal or within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madras and Bombay; and

- (b) to all such wills and codicils made outside those territories and limits so far as relates to immoveable property situate within those territories or limits:

Provided that marriage shall not revoke any such will or codicil.

General applica-  
tion of Part.

58. (1) The provisions of this Part shall not apply to testamentary succession to the property of any Muhammadan nor, save as provided by section 57, to testamentary succession to the property of any Hindu, Buddhist, Sikh or Jaina; nor shall they apply to any will made before the first day of January, 1866.

(2) Save as provided in sub-section (1) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India applicable to all cases of testamentary succession.

## CHAPTER II.

### OF WILLS AND CODICILS.

Person  
capable of  
making wills.

59. Every person of sound mind not being a minor may dispose of his property by will.

*Explanation 1.*—A married woman may dispose by will of any property which she could alienate by her own act during her life.

*Explanation 2.*—Persons who are deaf or dumb or blind are not thereby incapacitated for making a will if they are able to know what they do by it.

*Explanation 3.*—A person who is ordinarily insane may make a will during an interval in which he is of sound mind.

*Explanation 4.*—No person can make a will while he is in such a state of mind, whether arising from intoxication or from illness or from any other cause, that he does not know what he is doing.

*Illustrations.*

*Illustrations.*

(i) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him, or in whose favour it would be proper that he should make his will. A cannot make a valid will.

(ii) A executes an instrument purporting to be his will, but he does not understand the nature of the instrument, nor the effect of its provisions. This instrument is not a valid will.

(iii) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes a will. This is a valid will.

60. A father, whatever his age may be, may by will appoint a guardian or guardians for his child during minority. Testamentary guardian.

61. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void. Will obtained by fraud, coercion or importunity.

*Illustrations.*

(i) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act and thereby induces the testator to make a will in his, A's favour; such will has been obtained by fraud, and is invalid.

(ii) A, by fraud and deception, prevails upon the testator to bequeath a legacy to him. The bequest is void.

(iii) A, being a prisoner by lawful authority, makes his will. The will is not invalid by reason of the imprisonment.

(iv) A threatens to shoot B, or to burn his house or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B, in consequence, makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(v) A, being of sufficient intellect, if undisturbed by the influence of others, to make a will yet being so much under the control of B that he is not a free agent, makes a will, dictated by B. It appears that he would not have executed the will but for fear of B. The will is invalid.

(vi) A, being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a will of a certain purport and does so merely to purchase peace and in submission to B. The will is invalid.

(vii) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his will in the manner recommended by B. The will is not rendered invalid by the intercession and persuasion of B.

(viii) A, with a view to obtaining a legacy from B, pays him attention and flatters him and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

62. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will. Will may be revoked or altered.

## CHAPTER III.

CHAPTER III.

OF THE EXECUTION OF UNPRIVILEGED WILLS.

Execution of unprivileged wills.

63. Every testator, not being a soldier employed in an expedition or engaged in actual warfare, or a mariner at sea, shall execute his will according to the following rules:—

- (a) The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.
- (b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.
- (c) The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has seen some other person sign the will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

64. If a testator, in a will or codicil duly attested, refers to any other document then actually written as expressing any part of his intentions, such document shall be deemed to form a part of the will or codicil in which it is referred to.

CHAPTER IV.

OF PRIVILEGED WILLS.

Privileged wills.

65. Any soldier being employed in an expedition or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a will made in the manner provided in section 66. Such wills are called privileged wills.

Illustrations.

## Illustrations.

(i) A, a medical officer attached to a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged will.

(ii) A is at sea in a merchant-ship, of which he is the purser. He is a mariner, and, being at sea, can make a privileged will.

(iii) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged will.

(iv) A, a mariner of a ship, in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, for the purposes of this section, a mariner at sea, and can make a privileged will.

(v) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged will.

(vi) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged will.

66. (1) Privileged wills may be in writing, or may be made by word of mouth.

Mode of making, and rules for executing, privileged wills.

(2) The execution of privileged wills shall be governed by the following rules:—

(a) The will may be written wholly by the testator, with his own hand. In such case it need not be signed or attested.

(b) It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

(c) If the instrument purporting to be a will is written wholly or in part by another person and is not signed by the testator, it shall be deemed to be his will, if it is shown that it was written by the testator's directions or that he recognised it as his will.

(d) If it appears on the face of the instrument that the execution of it in the manner intended by the testator was not completed, the instrument shall not, by reason of that circumstance, be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

(e) If the soldier or mariner has written instructions for the preparation of his will, but has died before it could be prepared and executed, such instructions shall be considered to constitute his will.

(f) If

- (f) If the soldier or mariner has, in the presence of two witnesses, given verbal instruction for the preparation of his will, and they have been reduced into writing in his lifetime, but he has died before the instrument could be prepared and executed, such instructions shall be considered to constitute his will, although they may not have been reduced into writing in his presence, nor read over to him.
- (g) The soldier or mariner may make a will by word of mouth by declaring his intentions before two witnesses present at the same time.
- (h) A will made by word of mouth shall be null at the expiration of one month after the testator, being still alive, has ceased to be entitled to make a privileged will.

CHAPTER V.

OF THE ATTESTATION, REVOCATION, ALTERATION AND REVIVAL OF WILLS.

**67.** A will shall not be deemed to be insufficiently attested by reason of any benefit thereby given either by way of bequest or by way of appointment to any person attesting it, or to his or her wife or husband; but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

*Explanation.*—A legatee under a will does not lose his legacy by attesting a codicil which confirms the will.

**68.** No person, by reason of interest in, or of his being an executor of, a will, shall be disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof.

**69.** Every will shall be revoked by the marriage of the maker, except a will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not, in default of such appointment, pass to his or her executor or administrator, or to the person entitled in case of intestacy.

*Explanation.*—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

**70.** No

Effect of gift to  
attesting  
witness.

Witness not  
disqualified by  
interest or by  
being executor.

Revocation of  
will by  
testator's  
marriage.

70. No unprivileged will or codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which an unprivileged will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same.

Revocation of unprivileged will or codicil.

*Illustrations.*

(i) A has made an unprivileged will. Afterwards, A makes another unprivileged will which purports to revoke the first. This is a revocation.

(ii) A has made an unprivileged will. Afterwards, A, being entitled to make a privileged will, makes a privileged will, which purports to revoke his unprivileged will. This is a revocation.

71. No obliteration, interlineation or other alteration made in any unprivileged will after the execution thereof shall have any effect, except so far as the words or meaning of the will have been thereby rendered illegible or undiscernible, unless such alteration has been executed in like manner as hereinbefore is required for the execution of the will:

Effect of obliteration, interlineation or alteration in unprivileged will.

Provided that the will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses is made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

72. A privileged will or codicil may be revoked by the testator by an unprivileged will or codicil, or by any act expressing an intention to revoke it and accompanied by such formalities as would be sufficient to give validity to a privileged will, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Revocation of privileged will or codicil.

*Explanation.*—In order to the revocation of a privileged will or codicil by an act accompanied by such formalities as would be sufficient to give validity to a privileged will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged will.

73. (1) No unprivileged will or codicil, nor any part thereof, which has been revoked in any manner, shall be revived

Revival of unprivileged will.

revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same.

(2) When any will or codicil, which has been partly revoked and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as has been revoked before the revocation of the whole thereof, unless an intention to the contrary is shown by the will or codicil.

## CHAPTER VI.

### OF THE CONSTRUCTION OF WILLS.

Wording of will.

**74.** It is not necessary that any technical words or terms of art be used in a will, but only that the wording be such that the intentions of the testator can be known therefrom.

Inquiries to determine questions as to object or subject of will.

**75.** For the purpose of determining questions as to what person or what property is denoted by any words used in a will, a Court shall inquire into every material fact relating to the persons who claim to be interested under such will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

#### Illustrations.

(i) A, by his will, bequeaths 1,000 rupees to his eldest son or to his youngest grandchild, or to his cousin, Mary. A Court may make inquiry in order to ascertain to what person the description in the will applies.

(ii) A, by his will, leaves to B "my estate called Black Acre". It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(iii) A, by his will, leaves to B "the estate which I purchased of C". It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Mistake or misdescription of object.

**76. (1)** Where the words used in a will to designate or describe a legatee or a class of legatees sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect.

(2) A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

#### Illustrations.



*Illustrations.*

(i) A bequeaths a legacy to "Thomas, the second son of my brother John." The testator has an only brother named John, who has no son named Thomas, but has a second son whose name is William. William will have the legacy.

(ii) A bequeaths a legacy "to Thomas, the second son of my brother John." The testator has an only brother, named John, whose first son is named Thomas, and whose second son is named William. Thomas will have the legacy.

(iii) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(iv) The testator gives his residuary estate to be divided among "my seven children" and, proceeding to enumerate them, mentions six names only. This omission will not prevent the seventh child from taking a share with the others.

(v) The testator, having six grandchildren, makes a bequest to "my six grandchildren" and, proceeding to mention them by their Christian names, mentions one twice over omitting another altogether. The one whose name is not mentioned will take a share with the others.

(vi) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the will A has four children. Each of these four children will, if he survives the testator, receive a legacy of 1,000 rupees.

**77.** Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context. When words may be supplied.

*Illustration.*

The testator gives a legacy of "five hundred" to his daughter A and a legacy of "five hundred rupees" to his daughter B. A will take a legacy of five hundred rupees.

**78.** If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect. Rejection of erroneous particulars in description of subject.

*Illustrations.*

(i) A bequeaths to B "my marsh-lands lying in L and in the occupation of X." The testator had marsh-lands lying in L but had no marsh-lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh-lands of the testator lying in L will pass by the bequest.

(ii) The testator bequeaths to A "my zamindari of Rampur." He had an estate at Rampur but it was a taluq and not a zamindari. The taluq passes by this bequest.

**79.** If a will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part When part of description may not be rejected as erroneous.

of the description as erroneous, because the testator had other property to which such part of the description does not apply.

*Explanation.*—In judging whether a case falls within the meaning of this section, any words which would be liable to rejection under section 78 shall be deemed to have been struck out of the will.

*Illustrations.*

(i) A bequeaths to B "my marsh-lands lying in L and in the occupation of X." The testator had marsh-lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest will be considered as limited to such of the testator's marsh-lands lying in L as were in the occupation of X.

(ii) A bequeaths to B "my marsh-lands lying in L and in the occupation of X, comprising 1,000 bighas of lands." The testator had marsh-lands lying in L some of which were in the occupation of X and some not in the occupation of X. The measurement is wholly inapplicable to the marsh-lands of either class, or to the whole taken together. The measurement will be considered as struck out of the will, and such of the testator's marsh-lands lying in L as were in the occupation of X shall alone pass by the bequest.

Extrinsic evidence admissible in cases of patent ambiguity.

**80.** Where the words of a will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

*Illustrations.*

(i) A man, having two cousins of the name of Mary, bequeaths a sum of money to "my cousin Mary." It appears that there are two persons, each answering the description in the will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(ii) A, by his will, leaves to B "my estate called Sultanpur Khurd." It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in case of patent ambiguity or deficiency.

**81.** Where there is an ambiguity or deficiency on the face of a will, no extrinsic evidence as to the intentions of the testator shall be admitted.

*Illustrations.*

(i) A man has an aunt, Caroline, and a cousin, Mary, and has no aunt of the name of Mary. By his will he bequeaths 1,000 rupees to "my aunt, Caroline" and 1,000 rupees to "my cousin, Mary" and afterwards bequeaths 2,000 rupees to "my before-mentioned aunt, Mary." There is no person to whom the description given in the will can apply, and evidence is not admissible to show who was meant by "my before-mentioned aunt, Mary." The bequest is therefore void for uncertainty, under section 89.

(ii) A bequeaths 1,000 rupees to leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(iii) A bequeaths to B \_\_\_\_\_ rupees, or "my estate of \_\_\_\_\_." Evidence is not admissible to show what sum or what estate the testator intended to insert.

**82.** The

**82.** The meaning of any clause in a will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other.

Meaning of clause to be collected from entire will.

*Illustrations.*

(i) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(ii) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first as if he had said "I give Black Acre to B, and all the rest of my estate to A."

**83.** General words may be understood in a restricted sense where it may be collected from the will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the will that the testator meant to use them in such wider sense.

When words may be understood in restricted sense, and when in sense wider than usual.

*Illustrations.*

(i) A testator gives to A "my farm in the occupation of B," and to C "all my marsh-lands in L." Part of the farm in the occupation of B consists of marsh-lands in L, and the testator also has other marsh-lands in L. The general words, "all my marsh-lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh-lands in L.

(ii) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons and chest of clothes, and to his friend, A (a ship-mate), his red box, clasp-knife and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(iii) A, by his will, bequeathed to B all his household furniture, plate, linen, china, books, pictures and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest, B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

**84.** Where a clause is susceptible of two meanings according to one of which it has some effect, and according to the other of which it can have none, the former shall be preferred.

Which of two possible constructions preferred.

**85.** No part of a will shall be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

No part rejected, if it can be reasonably construed.

**86.** If the same words occur in different parts of the same will, they shall be taken to have been used everywhere in the same sense, unless a contrary intention appears.

Interpretation of words repeated in different parts of will.

**87.** The

Testator's intention to be effectuated as far as possible.

**87.** The intention of the testator shall not be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

*Illustration.*

The testator by a will made on his death-bed bequeathed all his property to C D for life and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under section 118, but it will take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

**88.** Where two clauses or gifts in a will are irreconcilable, so that they cannot possibly stand together, the last shall prevail.

*Illustrations.*

(i) The testator by the first clause of his will leaves his estate of Ramnagar "to A," and by the last clause of his will leaves it "to B and not to A." B will have it.

(ii) If a man at the commencement of his will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition will prevail.

Will or bequest void for uncertainty.

**89.** A will or bequest not expressive of any definite intention is void for uncertainty.

*Illustration.*

If a testator says "I bequeath goods to A," or "I bequeath to A," or "I leave to A all the goods mentioned in the Schedule" and no Schedule is found, or "I bequeath 'money,' 'wheat,' 'oil,'" or the like, without saying how much, this is void.

Words describing subject refer to property answering description at testator's death.

**90.** The description contained in a will of property, the subject of gift, shall, unless a contrary intention appears by the will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Power of appointment executed by general bequest.

**91.** Unless a contrary intention appears by the will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to objects of power in default of appointment.

**92.** Where property is bequeathed to or for the benefit of certain objects as a specified person may appoint or for the benefit of certain objects in such proportions as a specified person may appoint, and the will does not provide for the event of no appointment being made; if the power given by the

the will is not exercised, the property belongs to all the objects of the power in equal shares.

*Illustration.*

A, by his will, bequeaths a fund to his wife, for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund will be divided equally among the children.

93. Where a bequest is made to the "heirs" or "right heirs" or "relations" or "nearest relations" or "family" or "kindred" or "nearest of kin" or "next-of-kin" of a particular person without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Bequest to "heirs," etc., of particular person without qualifying terms.

*Illustrations.*

(i) A leaves his property "to my own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(ii) A bequeaths 10,000 rupees "to B for his life, and, after the death of B, to my own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's un-bequeathed property.

(iii) A leaves his property to B; but if B dies before him, to B's next-of-kin; B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(iv) A leaves 10,000 rupees "to B for his life, and after his decease to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

94. Where a bequest is made to the "representatives" or "legal representatives" or "personal representatives" or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it.

Bequest to "representatives," etc., of particular person.

*Illustration.*

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and will apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus B will pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

95. Where

Bequest without words of limitation.

95. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for him.

Bequest in alternative.

96. Where property is bequeathed to a person with a bequest in the alternative to another person or to a class of persons, then, if a contrary intention does not appear by the will, the legatee first named shall be entitled to the legacy if he is alive at the time when it takes effect; but if he is then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

*Illustrations.*

(i) A bequest is made to A or to B. A survives the testator. B takes nothing.

(ii) A bequest is made to A or to B. A dies after the date of the will, and before the testator. The legacy goes to B.

(iii) A bequest is made to A or to B. A is dead at the date of the will. The legacy goes to B.

(iv) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(v) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(vi) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(vii) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to bequest to person.

97. Where property is bequeathed to a person, and words are added which describe a class of persons but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the will.

*Illustrations.*

(i) A bequest is made—

- to A and his children,
- to A and his children by his present wife,
- to A and his heirs,
- to A and the heirs of his body,
- to A and the heirs male of his body,
- to A and the heirs female of his body,
- to A and his issue,
- to A and his family,
- to A and his descendants,
- to A and his representatives,
- to A and his personal representatives,
- to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(ii) A

(ii) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(iii) A bequest is made to A for life and after his death to his issue. At the death of A the property belongs in equal shares to all persons who then answer the description of issue of A.

**98.** Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Bequest to class of persons under general description only.

**99.** In a will—

Construction of terms.

- (a) the word "children" applies only to lineal descendants in the first degree of the person whose "children" are spoken of;
- (b) the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "grandchildren" are spoken of;
- (c) the words "nephews" and "nieces" apply only to children of brothers or sisters;
- (d) the words "cousins," or "first cousins," or "cousins-german," apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of;
- (e) the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent of the person whose "first cousins once removed" are spoken of;
- (f) the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of;
- (g) the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of;
- (h) words expressive of collateral relationship apply alike to relatives of full and of half blood; and
- (i) all words expressive of relationship apply to a child in the womb who is afterwards born alive.

**100.** In the absence of any intimation to the contrary in a will, the word "child," the word "son," the word "daughter," or any word which expresses relationship, is to be under-

stood  
Words expressing relationship denote only legitimate relatives or falling such relatives reputed legitimate.

stood as denoting only a legitimate relative, or, where there is no such legitimate relative, a person who has acquired, at the date of the will, the reputation of being such relative.

*Illustrations.*

(i) A having three children, B, C and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "my children." The property belongs to B and C in equal shares, to the exclusion of D.

(ii) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(iii) A, having in his will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "my said children." B will take a share in the legacy along with the legitimate children.

(iv) A leaves a legacy to "the children of B." B is dead and has left none but illegitimate children. All those who had at the date of the will acquired the reputation of being the children of B are objects of the gift.

(v) A bequeaths a legacy to "the children of B." B never had any legitimate child. C and D had, at the date of the will, acquired the reputation of being children of B. After the date of the will and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(vi) A makes a bequest in favour of his child by a certain woman, not his wife. B had acquired at the date of the will the reputation of being the child of A by the woman designated. B takes the legacy.

(vii) A makes a bequest in favour of his child to be born of a woman who never becomes his wife. The bequest is void.

(viii) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where will purports to make two bequests to same person.

**101.** Where a will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the will to show what he intended, the following rules shall have effect in determining the construction to be put upon the will:—

- (a) If the same specific thing is bequeathed twice to the same legatee in the same will or in the will and again in the codicil, he is entitled to receive that specific thing only.
- (b) Where one and the same will or one and the same codicil purports to make, in two places, a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.
- (c) Where two legacies of unequal amount are given to the same person in the same will, or in the same codicil, the legatee is entitled to both.

(d) Where



- (d) Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a will and the other by a codicil, or each by a different codicil, the legatee is entitled to both legacies.

*Explanation.*—In clauses (a) to (d) of this section, the word “will” does not include a codicil.

*Illustrations.*

(i) A, having ten shares, and no more, in the Imperial Bank of India, made his will, which contains near its commencement the words “I bequeath my ten shares in the Imperial Bank of India to B.” After other bequests, the will concludes with the words “and I bequeath my ten shares in the Imperial Bank of India to B.” B is entitled simply to receive A’s ten shares in the Imperial Bank of India.

(ii) A, having one diamond ring, which was given him by B, bequeaths to C the diamond ring which was given by B. A afterwards made a codicil to his will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(iii) A, by his will, bequeaths to B the sum of 5,000 rupees and afterwards in the same will repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(iv) A, by his will, bequeaths to B the sum of 5,000 rupees and afterwards in the same will bequeaths to B the sum of 6,000 rupees. B is entitled to receive 11,000 rupees.

(v) A, by his will, bequeaths to B 5,000 rupees and by a codicil to the will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(vi) A, by one codicil to his will, bequeaths to B 5,000 rupees and by another codicil bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(vii) A, by his will, bequeaths “500 rupees to B because she was my nurse,” and in another part of the will bequeaths 500 rupees to B “because she went to England with my children.” B is entitled to receive 1,000 rupees.

(viii) A, by his will, bequeaths to B the sum of 5,000 rupees and also, in another part of the will, an annuity of 400 rupees. B is entitled to both legacies.

(ix) A, by his will, bequeaths to B the sum of 5,000 rupees and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

**102.** A residuary legatee may be constituted by any words Constitution of residuary legatee. that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

*Illustrations.*

(i) A makes her will, consisting of several testamentary papers, in one of which are contained the following words:—“I think there will be something left, after all funeral expenses, etc., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to.” B is constituted residuary legatee.

(ii) A makes his will, with the following passage at the end of it:—“I believe there will be found sufficient in my banker’s hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue

residue for her own use and pleasure." B is constituted the residuary legatee.

(iii) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

Property to which residuary legatee entitled.

**103.** Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

*Illustration.*

A by his will bequeaths certain legacies, of which one is void under section 118, and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his will A purchases a zamindari, which belongs to him at the time of his death. B is entitled to the two legacies and the zamindari as part of the residue.

Time of vesting legacy in general terms.

**104.** If a legacy is given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and, if he dies without having received it, it shall pass to his representatives.

In what case legacy lapses.

**105.** (1) If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appears by the will that the testator intended that it should go to some other person:

(2) In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

*Illustrations.*

(i) The testator bequeaths to B "500 rupees which B owes me." B dies before the testator; the legacy lapses.

(ii) A bequest is made to A and his children. A dies before the testator, or happens to be dead when the will is made. The legacy to A and his children lapses.

(iii) A legacy is given to A, and, in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(iv) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(v) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(vi) The testator and the legatee perished in the same ship-wreck. There is no evidence to show which died first. The legacy lapses.

Legacy does not lapse if one of two joint legatees die before testator.

**106.** If a legacy is given to two persons jointly, and one of them dies before the testator, the other legatee takes the whole.

*Illustration.*

*Illustration.*

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

**107.** If a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then, if any legatee dies before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Effect of words showing testator's intention to give distinct shares.

*Illustration.*

A sum of money is bequeathed to A, B and C, to be equally divided among them. A dies before the testator. B and C will only take so much as they would have had if A had survived the testator.

**108.** Where a share which lapses is a part of the general residue bequeathed by the will, that share shall go as undisposed of.

When lapsed share goes as undisposed of.

*Illustration.*

The testator bequeaths the residue of his estate to A, B and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

**109.** Where a bequest has been made to any child or other lineal descendant of the testator, and the legatee dies in the lifetime of the testator, but any lineal descendant of his survives the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention appears by the will.

When bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

*Illustration.*

A makes his will, by which he bequeaths a sum of money to his son, B, for his own absolute use and benefit. B dies before A, leaving a son, C, who survives A, and having made his will whereby he bequeaths all his property to his widow, D. The money goes to D.

**110.** Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Bequest to A for benefit of B does not lapse by A's death.

**111.** Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as are alive at the testator's death.

Survivorship in case of bequest to described class.

*Exception.*—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator by reason of a prior bequest or otherwise, the property shall at that time go

to such of them as are then alive, and to the representatives of any of them who have died since the death of the testator.

*Illustrations.*

(i) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the will, leaving three children, C, D and E. E died after the date of the will, but before the death of A. C and D survive A. The legacy will belong to C and D, to the exclusion of the representatives of E.

(ii) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D, and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E, his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(iii) A sum of money was bequeathed to A for her life and after her decease, to the children of B. At the death of the testator, B had two children living, C and D, and, after that event, two children, E and F, were born to B. C and E died in the lifetime of A, C having made a will, E having made no will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E and one to F.

(iv) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B, D and E have survived B. One-third of A's lands belong to D, E and the representatives of C, in equal shares.

(v) A bequeaths 1,000 rupees to B for life and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(vi) A bequeaths 1,000 rupees to "all the children born or to be born" of B to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F and G, to the exclusion of the after-born child of B.

(vii) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children, named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

## CHAPTER VII.

### OF VOID BEQUESTS.

Bequest to person by particular description, who is not in existence at testator's death.

112. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

*Exception.*—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual,

individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or, if he is dead, to his representatives.

*Illustrations.*

(i) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator, B has no son. The bequest is void.

(ii) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death the legacy goes to C's son.

(iii) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(iv) A bequeaths his estate of Green Acre to B for life, and at his decease, to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(v) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

**113.** Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Bequest to person not in existence at testator's death subject to prior bequest.

*Illustrations.*

(i) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(ii) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(iii) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that, if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect in the case of each daughter who marries under eighteen of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(iv) A

(iv) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against  
perpetuity.

**114.** No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's death and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

*Illustrations.*

(i) A fund is bequeathed to A for his life and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25 may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B and the minority of the sons of B. The bequest after B's death is void.

(ii) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(iii) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18, but that, if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(iv) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that, if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughters whose share it was. All these provisions are valid.

Bequest to a  
class some of  
whom may  
come under  
some under  
rules in sec-  
tions 113 and  
114.

**115.** If a bequest is made to a class of persons with regard to some of whom it is inoperative by reason of the provisions of section 113 or section 114, such bequest shall be wholly void.

*Illustrations.*

(i) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator,  
and

and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and, as it is given to all his children as a class it is not good as to any division of that class, but is wholly void.

(ii) A fund is bequeathed to A for his life, and after his death to B, C, D and all other children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in *Illustration (i)*. The mention of B, C, and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

**116.** Where a bequest is void by reason of any of the provisions of section 113, section 114, or section 115, any bequest contained in the same will, and intended to take effect after or upon failure of such prior bequest, is also void.

Bequest to take effect on failure of bequest void under section 113, 114 or 115.

*Illustrations.*

(i) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under section 114. The bequest to B is void.

(ii) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and, if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under section 114. The bequest to B is void.

**117.** A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Effect of direction for accumulation.

*Exception.*—Where the property is immovable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

*Illustrations.*

(i) The will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal, together with the accumulations, shall then be divided between A, B and C. A, B and C are entitled to receive the sum of 10,000 rupees at the end of a year from the testator's death.

(ii) The will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(iii) The  
61

(iii) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall be the paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B will receive, at the end of one year from the testator's death, the rents which have accrued during the year, together with any interest which may have been made by investing them.

(iv) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(v) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the will, but in consequence of B's minority.

Bequest to religious or charitable uses.

**118.** No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons.

*Illustrations.*

A having a nephew makes a bequest by a will not executed and deposited as required—

- for the relief of poor people;
  - for the maintenance of sick soldiers;
  - for the erection or support of a hospital;
  - for the education and preferment of orphans;
  - for the support of scholars;
  - for the erection or support of a school;
  - for the building and repairs of a bridge;
  - for the making of roads;
  - for the erection or support of a church;
  - for the repairs of a church;
  - for the benefit of ministers of religion;
  - for the formation or support of a public garden;
- All these bequests are void.

CHAPTER VIII.

OF THE VESTING OF LEGACIES.

Date of vesting of legacy when payment or possession postponed.

**119.** Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the will, become vested in the legatee on the



the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy, and in such cases the legacy is from the testator's death said to be vested in interest.

*Explanation.*—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that, if a particular event shall happen, the legacy shall go over to another person.

*Illustrations.*

(i) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(ii) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(iii) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(iv) A fund is bequeathed to A until B attains the age of 18 and then to B. The legacy to B is vested in interest from the testator's death.

(v) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(vi) A fund is bequeathed to A, B and C in equal shares to be paid to them on their attaining the age of 18, respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vested in interest in A, B and C, subject to be divested in case A, B and C shall all die under 18, and, upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

**120.** (1) A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens.

Date of vesting when legacy contingent upon specified uncertain event.

(2) A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible.

(3) In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

*Exception.*—Where a fund is bequeathed to any person upon his attaining a particular age, and the will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as

may

may be necessary, to be applied for his benefit, the bequest of the fund is not contingent.

*Illustrations.*

(i) A legacy is bequeathed to D in case A, B and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B and C all die under 18, or one of them attains that age.

(ii) A sum of money is bequeathed to A "in case he shall attain the age of 18," or "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition is fulfilled by his attaining that age.

(iii) An estate is bequeathed to A for life, and after his death to B if B shall then be living; but if B shall not be then living to C, A, B and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other has happened.

(iv) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(v) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that, if she neither attains 18 nor marries under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy although she may have married under 18 without the consent of B.

(vi) An estate is bequeathed to A until he shall marry and after that event to B. B's interest in the bequest is contingent until the condition is fulfilled by A's marrying.

(vii) An estate is bequeathed to A until he shall take advantage of any law for the relief of insolvent debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of such a law.

(viii) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(ix) A leaves his farm of Sultanpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(x) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent until the condition is fulfilled by the expiration of the five years without B's having married C, or by the occurrence within that period of an event which makes the fulfilment of the condition impossible.

(xi) A fund is bequeathed to A if B shall not make any provision for him by will. The legacy is contingent until B's death.

(xii) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(xiii) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in bequest to such

121. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has

has not attained that age cannot have a vested interest in the legacy.

members of a class as shall have attained particular age.

*Illustration.*

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that, while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

CHAPTER IX.

OF ONEROUS BEQUESTS.

122. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Onerous bequests.

*Illustration.*

A, having shares in (X), a prosperous joint stock company and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies; B refuses to accept the shares in (Y). He forfeits the shares in (X).

123. Where a will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

One of two separate and independent bequests to same person may be accepted, and other refused.

*Illustration.*

A, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He will not by this refusal forfeit the money.

CHAPTER X.

OF CONTINGENT BEQUESTS.

124. Where a legacy is given if a specified uncertain event shall happen and no time is mentioned in the will for the occurrence of that event, the legacy cannot take effect, unless such event happens before the period when the fund bequeathed is payable or distributable.

Bequest contingent upon specified uncertain event, no time being mentioned for its occurrence.

*Illustrations.*

(i) A legacy is bequeathed to A, and, in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(ii) A

(ii) A legacy is bequeathed to A, and, in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(iii) A legacy is bequeathed to A when and if he attains the age of 18, and, in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(iv) A legacy is bequeathed to A for life, and, after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children" are to be understood as meaning in case B dies without children during the lifetime of A.

(v) A legacy is bequeathed to A for life, and, after his death to B, and, "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B dies in the lifetime of A."

Bequest to such of certain persons as shall be surviving at some period not specified.

**125.** Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as are alive at the time of payment or distribution, unless a contrary intention appears by the will.

#### Illustrations.

(i) Property is bequeathed to A and B to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(ii) Property is bequeathed to A for life, and, after his death, to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(iii) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that, if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(iv) Property is bequeathed to A for life, and, after his death, to B and C, with a direction that, in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

## CHAPTER XI.

### OF CONDITIONAL BEQUESTS.

Bequest upon impossible condition.

**126.** A bequest upon an impossible condition is void.

#### Illustrations.

(i) An estate is bequeathed to A on condition that he shall walk 100 miles in an hour. The bequest is void.

(ii) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the will. The bequest is void.

**127. A**

127. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Bequest upon illegal or immoral condition.

*Illustrations.*

(i) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(ii) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

128. Where a will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Fulfilment of condition precedent to vesting of legacy.

*Illustrations.*

(i) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B, C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(ii) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(iii) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries in the lifetime of B, C and D, with the consent of B and C only. A has not fulfilled the condition.

(iv) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A obtains the unconditional assent of B, C and D to his marriage with E. Afterwards B, C and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(v) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries without the consent of B, C and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(vi) A makes his will whereby he bequeaths a sum of money to B if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(vii) A legacy is bequeathed to A if he executes a certain document within a time specified in the will. The document is executed by A within a reasonable time, but not within the time specified in the will. A has not performed the condition, and is not entitled to receive the legacy.

129. Where there is a bequest to one person and a bequest of the same thing to another, if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest although the failure may not have occurred in the manner contemplated by the testator.

Bequest to A and on failure of prior bequest to B.

*Illustrations.*

(i) A bequeaths a sum of money to his own children surviving him, and, if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(ii) A

(ii) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

When second bequest not to take effect on failure of first.

**130.** Where the will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect, unless the prior bequest fails in that particular manner.

*Illustration.*

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him, the bequest to B does not take effect.

Bequest over, conditional upon happening or not happening of specified uncertain event.

**131.** (1) A bequest may be made to any person with the condition superadded that, in case a specified uncertain event shall happen, the thing bequeathed shall go to another person, or that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person.

(2) In each case the ulterior bequest is subject to the rules contained in sections 120, 121, 122, 123, 124, 125, 126, 127, 129 and 130.

*Illustrations.*

(i) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be divested and to go to B in case A dies under 18.

(ii) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a will, the estate shall go to B. A disputes the competency of the testator to make a will. The estate goes to B.

(iii) A sum of money is bequeathed to A for life, and, after his death, to B; but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be divested if he dies leaving a son in A's lifetime.

(iv) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(v) A bequeaths to B the interest of a fund for life, and directs the fund to be divided at her death equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

Condition must be strictly fulfilled.

**132.** An ulterior bequest of the kind contemplated by section 131 cannot take effect, unless the condition is strictly fulfilled.

*Illustrations.*

(i) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, C and D, the legacy shall go to E. D dies.

Ever

Even if A marries without the consent of B and C, the gift to E does not take effect.

(ii) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(iii) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that, if A dies under 18 or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

**133.** If the ulterior bequest be not valid the original bequest is not affected by it.

Original bequest not affected by invalidity of second.

*Illustrations.*

(i) An estate is bequeathed to A for his life with condition super-added that, if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void. A retains his estate as if no condition had been inserted in the will.

(ii) An estate is bequeathed to A for her life and, if she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the will.

(iii) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under section 105, and A is entitled to the estate during his life.

**134.** A bequest may be made with the condition super-added that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen, or not happen.

*Illustrations.*

(i) An estate is bequeathed to A for his life, with a proviso that, in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood. He loses his life-interest in the estate.

(ii) An estate is bequeathed to A, provided that, if he marries under the age of 25 without the consent of the executors named in the will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(iii) An estate is bequeathed to A, provided that, if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(iv) An estate is bequeathed to A, with a proviso that, if she becomes a nun, she shall cease to have any interest in the estate. A becomes a nun. She loses her interest under the will.

(v) A fund is bequeathed to A for life, and, after his death, to B, if B shall be then living, with a proviso that, if B shall become a nun, the bequest to her shall cease to have any effect. B becomes a nun in the life-time of A. She thereby loses her contingent interest in the fund.

**135.** In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which

Such condition must not be invalid under section 120.

which it relates be one which could legally constitute the condition of a bequest as contemplated by section 120.

Result of legatee rendering impossible or indefinitely postponing act for which no time specified, and on non-performance of which subject-matter to go over.

**136.** Where a bequest is made with a condition super-added that, unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

*Illustrations.*

(i) A bequest is made to A, with a proviso that, unless he enters the Army, the legacy shall go over to B. A takes Holy Orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(ii) A bequest is made to A, with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger and thereby indefinitely postpones the fulfilment of the conditions. The bequest ceases to have effect.

Performance of condition, precedent or subsequent, within specified time. Further time in case of fraud.

**137.** Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

CHAPTER XII.

OF BEQUESTS WITH DIRECTIONS AS TO APPLICATION OR ENJOYMENT.

Direction that fund be employed in particular manner following absolute bequest of same to or for benefit of any person.

**138.** Where a fund is bequeathed absolutely to or for the benefit of any person, but the will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the will had contained no such direction.

*Illustration.*

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

**139.** Where



139. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the will had contained no such direction.

Direction that mode of enjoyment of absolute bequest is to be restricted, to secure specified benefit for legatee.

*Illustrations.*

(i) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life and be paid to their children after their death. All the daughters die unmarried. The representatives of each daughter are entitled to her share of the residue.

(ii) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

140. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the will, remains a part of the estate of the testator.

Bequest of fund for certain purposes, some of which cannot be fulfilled.

*Illustrations.*

(i) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children. The son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(ii) A bequeaths the residue of his estate, to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

## CHAPTER XIII.

### OF BEQUESTS TO AN EXECUTOR.

141. If a legacy is bequeathed to a person who is named an executor of the will, he shall not take the legacy, unless he proves the will or otherwise manifests an intention to act as executor.

Legatee named as executor cannot take unless he shows intention to act as executor.

*Illustration.*

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the will, and dies a

few days after the testator, without having proved the will. A has manifested an intention to act as executor.

## CHAPTER XIV.

## OF SPECIFIC LEGACIES.

Specific legacy  
defined.

142. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

*Illustrations.*

- (i) A bequeaths to B—
- “ the diamond ring presented to me by C ”;
  - “ my gold chain ”;
  - “ a certain bale of wool ”;
  - “ a certain piece of cloth ”;
  - “ all my household goods which shall be in or about my dwelling-house in M. Street, in Calcutta, at time of my death ”;
  - “ the sum of 1,000 rupees in a certain chest ”;
  - “ the debt which B owes me ”;
  - “ all my bills, bonds and securities belonging to me lying in my lodgings in Calcutta ”;
  - “ all my furniture in my house in Calcutta ”;
  - “ all my goods on board a certain ship now lying in the river Hughli ”;
  - “ 2,000 rupees which I have in the hands of C ”;
  - “ the money due to me on the bond of D ”;
  - “ my mortgage on the Rampur factory ”;
  - “ one-half of the money owing to me on my mortgage of Rampur factory ”;
  - “ 1,000 rupees, being part of a debt due to me from C ”;
  - “ my capital stock of 1,000*l.* in East India Stock ”;
  - “ my promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan ”;
  - “ all such sums of money as my executors may, after my death, receive in respect of the debt due to me from the insolvent firm of D and Company ”;
  - “ all the wine which I may have in my cellar at the time of my death ”;
  - “ such of my horses as B may select ”;
  - “ all my shares in the Imperial Bank of India ”;
  - “ all my shares in the Imperial Bank of India which I may possess at the time of my death ”;
  - “ all the money which I have in the 5½ per cent. loan of the Government of India ”;
  - “ all the Government securities I shall be entitled to at the time of my decease.”

Each of these legacies is specific.

(ii) A,

(ii) A, having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees in trust to sell" for the benefit of B. The legacy is specific.

(iii) A having property at Benares, and also in other places, bequeaths to B all his property at Benares. The legacy is specific.

(iv) A bequeaths to B—

- his house in Calcutta:
- his zamindari of Rampur:
- his taluq of Ramnagar:
- his lease of the indigo-factory of Salkya:
- an annuity of 500 rupees out of the rents of his zamindari of W.

A directs his zamindari of X to be sold, and the proceeds to be invested for the benefit of B.

Each of these bequests is specific.

(v) A by his will charges his zamindari of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamindari to D. Each of these bequests is specific.

(vi) A bequeaths a sum of money—

- to buy a house in Calcutta for B:
- to buy an estate in zila Faridpur for B:
- to buy a diamond ring for B:
- to buy a horse for B:
- to be invested in shares in the Imperial Bank of India for B:
- to be invested in Government securities for B.

A bequeaths to B—

- "a diamond ring":
- "a horse":
- "10,000 rupees worth of Government securities":
- "an annuity of 500 rupees":
- "2,000 rupees to be paid in cash":
- "so much money as will produce 5,000 rupees four per cent. Government securities."

These bequests are not specific.

(vii) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of property which he may leave in England. No one of these legacies is specific.

**143.** Where a certain sum is bequeathed, the legacy is not specific merely because the stock, funds or securities in which it is invested are described in the will.

Bequest of certain sum where stocks, etc., in which invested are described.

*Illustration.*

A bequeaths to B—

- "10,000 rupees of my funded property":
- "10,000 rupees of my property now invested in shares of the East Indian Railway Company":
- "10,000 rupees, at present secured by mortgage of Rampur factory."

No one of these legacies is specific.

**144.** Where

Bequest of stock where testator had, at date of will, equal or greater amount of stock of same kind.

**144.** Where a bequest is made in general terms of a certain amount of any kind of stock, the legacy is not specific merely because the testator was, at the date of his will, possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

*Illustration.*

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the will five per cent. Government securities for 5,000 rupees. The legacy is not specific.

Bequest of money where not payable until part of testator's property disposed of in certain way.

**145.** A money legacy is not specific merely because the will directs its payment to be postponed until some part of the property of the testator has been reduced to a certain form, or remitted to a certain place.

*Illustration.*

A bequeaths to B 10,000 rupees and directs that this legacy shall be paid as soon as A's property in India shall be realised in England. The legacy is not specific.

When enumerated articles not deemed specifically bequeathed.

**146.** Where a will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

Retention, in form, of specific bequest to several persons in succession.

**147.** Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

*Illustrations.*

(i) A, having lease of a house for a term of years, fifteen of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although, if B lives for fifteen years, C can take nothing under the bequest.

(ii) A, having an annuity during the life of B, bequeaths it to C, for his life, and, after C's death, to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

**148.** Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed, it shall, in the absence of any direction to the contrary, be sold, and the proceeds of the sale shall be invested in such securities as the High Court may by any general rule authorise or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the will.

*Illustration*

*Illustration.*

A, having a lease for a term of years, bequeaths all his property to B for life, and, after B's death, to C. The lease must be sold, the proceeds invested as stated in this section and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

149. If there is a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

Where deficiency of assets to pay legacies, specific legacy, not to abate with general legacies.

## CHAPTER XV.

## OF DEMONSTRATIVE LEGACIES.

150. Where a testator bequeaths a certain sum of money, or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Demonstrative legacy defined.

*Explanation.*—The distinction between a specific legacy and a demonstrative legacy consists in this, that—

where specified property is given to the legatee, the legacy is specific;

where the legacy is directed to be paid out of specified property, it is demonstrative.

*Illustrations.*

(i) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific, the legacy to C is demonstrative.

(ii) A bequeaths to B—

“ ten bushels of the corn which shall grow in my field of Green Acre ”:

“ 80 chests of the indigo which shall be made at my factory of Rampur ”:

“ 10,000 rupees out of my five per cent. promissory notes of the Government of India ”:

an annuity of 500 rupees “ from my funded property ”:

“ 1,000 rupees out of the sum of 2,000 rupees due to me by C ”:

an annuity, and directs it to be paid “ out of the rents arising from my taluk of Ramnagar ”.

(iii) A bequeaths to B—

“ 10,000 rupees out of my estate at Ramnagar,” or charges it on his estate at Ramnagar:

“ 10,000 rupees, being my share of the capital embarked in a certain business.”

Each of these bequests is demonstrative.

151. Where

Order of payment when legacy directed to be paid out of fund the subject of specific legacy.

151. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund and, so far as the residue shall be deficient, out of the general assets of the testator.

*Illustration.*

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

CHAPTER XVI.

OF ADEPTION OF LEGACIES.

Adeption explained.

152. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect, by reason of the subject-matter having been withdrawn from the operation of the will.

*Illustrations.*

(i) A bequeaths to B—

“the diamond ring presented to me by C”:

“my gold chain”:

“a certain bale of wool”:

“a certain piece of cloth”:

“all my household goods which shall be in or about my dwelling-house in M Street in Calcutta, at the time of my death.”

in his life time,—

sells or gives away the ring:

converts the chain into a cup:

converts the wool into cloth:

makes the cloth into a garment:

takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(ii) A bequeaths to B—

“the sum of 1,000 rupees in a certain chest”:

“all the horses in my stable.”

At the death of A, no money is found in the chest, and no horses in the stable. The legacies are adeemed.

(iii) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned. The legacy is adeemed.

153. A

153. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind, but it shall in such case be paid out of the general assets of the testator.

Non-adeemption of demonstrative legacy.

154. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Adeemption of specific bequest of right to receive something from third party.

*Illustrations.*

(i) A bequeaths to B—

- “ the debt which C owes me ” :
- “ 2,000 rupees which I have in the hands of D ” :
- “ the money due to me on the bond of E ” :
- “ my mortgage on the Rampur factory.”

All these debts are extinguished in A's lifetime, some with and some without his consent. All the legacies are adeemed.

(ii) A bequeaths to B his interest in certain policies of life assurance. A in his lifetime receives the amount of the policies. The legacy is adeemed.

155. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an adeemption of the legacy to the extent of the sum so received.

Adeemption pro tanto by testator's receipt of part of entire thing specifically bequeathed.

*Illustration.*

A bequeaths to B “ the debt due to me by C.” The debt amounts to 10,000 rupees. C pays to A 5,000 rupees the one-half of the debt. The legacy is revoked by adeemption, so far as regards the 5,000 rupees received by A.

156. If a portion of an entire fund or stock is specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an adeemption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Adeemption pro tanto by testator's receipt of portion of entire fund of which portion has been specifically bequeathed.

*Illustration.*

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

157. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee, then, if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific

Order of payment where portion of fund specifically bequeathed to one legatee, and legacy charged on same fund to another, and,

testator having received portion of that fund, remainder insufficient to pay both legacies.

specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

*Illustration.*

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 5,000 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Adeemption where stock, specifically bequeathed, does not exist at testator's death.

**158.** Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

*Illustration.*

A bequeaths to B—

“ my capital stock of 1,000*l.* in East India Stock ”:

“ my promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan.”

A sells the stock and the notes. The legacies are adeemed.

Adeemption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death

**159.** Where stock which has been specifically bequeathed exists only in part at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

*Illustration.*

A bequeaths to B his 10,000 rupees in the 5½ per cent. loan of the Government of India. A sells one-half of his 10,000 rupees in the loan in question. One-half of the legacy is adeemed.

Non-adeemption of specific bequest of goods described as connected with certain place, by reason of removal.

**160.** A specific bequest of goods under a description connecting them with a certain place is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

*Illustrations.*

(i) A bequeaths to B “ all my household goods which shall be in or about my dwelling-house in Calcutta at the time of my death.” The goods are removed from the house to save them from fire. A dies before they are brought back.

(ii) A bequeaths to B “ all my household goods which shall be in or about my dwelling-house in Calcutta at the time of my death.” During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

**161.** The



**161.** The removal of the thing bequeathed from the place in which it is stated in the will to be situated does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

When removal of thing bequeathed does not constitute ademption.

*Illustrations.*

(i) A bequeaths to B "all the bills, bonds and other securities for money belonging to me now lying in my lodgings in Calcutta." At the time of his death, these effects had been removed from his lodgings in Calcutta.

(ii) A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only which he removes with himself to each house. At the time of his death the furniture is in the house at Chinsurah.

(iii) A bequeaths to B all his goods on board a certain ship then lying in the river Hughli. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

**162.** Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which may be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

When thing bequeathed is a valuable to be received by testator from third person; and testator himself, or his representative, receives it.

*Illustration.*

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property. The legacy is not adeemed.

**163.** Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

Change by operation of law of subject of specific bequest between date of will and testator's death.

*Illustrations.*

(i) A bequeaths to B "all the money which I have in the 5½ per cent. loan of the Government of India." The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

(ii) A bequeaths to B the sum of 2,000*l.* invested in Consols in the names of trustees for A. The sum of 2,000*l.* is transferred by the trustees into A's own name.

(iii) A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power under his marriage settlement to dispose of by will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

**164.** Where

Change of subject without testator's knowledge.

**164.** Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

*Illustration.*

A bequeaths to B "all my 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed lent to third party on condition that it be replaced.

**165.** Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed sold but replaced, and belonging to testator at his death.

**166.** Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

CHAPTER XVII.

OF THE PAYMENT OF LIABILITIES IN RESPECT OF THE SUBJECT OF A BEQUEST.

Non-liability of executor to exonerate specific legatees.

**167.** (1) Where property specifically bequeathed is subject at the death of the testator to any pledge, lien or incumbrance created by the testator himself or by any person under whom he claims, then, unless a contrary intention appears by the will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance.

(2) A contrary intention shall not be inferred from any direction which the will may contain for the payment of the testator's debts generally.

*Explanation.*—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this section.

*Illustrations.*

(i) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(ii) A bequeaths to B a zamindari which at A's death is subject to a mortgage for 10,000 rupees; and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to his charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

**168.** Where

**168.** Where anything is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Completion of testator's title to things bequeathed to be at cost of his estate.

*Illustrations.*

(i) A, having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(ii) A, having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

**169.** Where there is a bequest of any interest in immovable property in respect of which payment in the nature of land-revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them, as the case may be, up to the day of his death.

Exoneration of legatee's immovable property for which land-revenue or rent payable periodically.

*Illustration.*

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate will make good 25 rupees in respect of the rent.

**170.** In the absence of any direction in the will, where there is a specific bequest of stock in a joint stock company, if any call or other payment is due from the testator at the time of his death in respect of the stock, such call or payment shall, as between the testator's estate and the legatee, be borne by the estate; but, if any call or other payment becomes due in respect of such stock after the testator's death, the same shall, as between the testator's estate and the legatee, be borne by the legatee, if he accepts the bequest.

Exoneration of specific legatee's stock in joint stock company.

*Illustrations.*

(i) A bequeaths to B his shares in a certain railway. At A's death there was due from him the sum of 100 rupees in respect of each share, being the amount of a call which had been duly made, and the sum of five rupees in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(ii) A has agreed to take 50 shares in an intended joint stock company, and has contracted to pay up 100 rupees in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(iii) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(iv) A

(iv) A bequeaths to B his shares in a joint-stock company. B accepts the bequest. Afterwards the affairs of the company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(v) A is the owner of ten shares in a railway company. At a meeting held during his lifetime a call is made of fifty rupees per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

## CHAPTER XVIII.

## OF BEQUESTS OF THINGS DESCRIBED IN GENERAL TERMS.

Bequest of thing described in general terms.

171. If there is a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

*Illustrations.*

(i) A bequeaths to B a pair of carriage-horses or a diamond ring. The executor must provide the legatee with such articles if the state of the assets will allow it.

(ii) A bequeaths to B "my pair of carriage-horses". A had no carriage-horses at the time of his death. The legacy fails.

## CHAPTER XIX.

## OF BEQUESTS OF THE INTEREST OR PRODUCE OF A FUND.

Bequest of interest or produce of fund.

172. Where the interest or produce of a fund is bequeathed to any person, and the will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal, as well as the interest, shall belong to the legatee.

*Illustrations.*

(i) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(ii) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(iii) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

## CHAPTER XX.

## CHAPTER XX.

## OF BEQUESTS OF ANNUITIES.

**173.** Where an annuity is created by will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the will, notwithstanding that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Annuity created by will payable for life only unless contrary intention appears by will.

*Illustrations.*

(i) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(ii) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(iii) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

**174.** Where the will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of any annuity for any person, on the testator's death, the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him or to receive the money appropriated for that purpose by the will.

Period of vesting where will directs that annuity be provided out of proceeds of property, or out of property generally, or where money bequeathed to be invested in purchase of annuity.

*Illustrations.*

(i) A by his will directs that his executors shall, out of his property, purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him or to receive such a sum as will be sufficient for the purchase of such an annuity.

(ii) A bequeaths a fund to B for his life, and directs that after B's death, it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

**175.** Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the will.

Abatement of annuity.

**176.** Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

Where gift of annuity and residuary gift, whole annuity to be first satisfied.

## CHAPTER XXI.

CHAPTER XXI.

OF LEGACIES TO CREDITORS AND PORTIONERS.

Creditor *primâ facie* entitled to legacy as well as debt.

**177.** Where a debtor bequeaths a legacy to his creditor, and it does not appear from the will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy, as well as to the amount of the debt.

Child *primâ facie* entitled to legacy as well as portion.

**178.** Where a parent, who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy, as well as the portion.

*Illustration.*

A, by articles entered into in contemplation of his marriage with B covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by subsequent provision for legatee.

**179.** No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

*Illustrations.*

(i) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(ii) A bequeaths 40,000 rupees to B, his orphan niece whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

CHAPTER XXII.

OF ELECTION.

Circumstances in which election takes place.

**180.** Where a person, by his will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and, in the latter case, he shall give up any benefits which may have been provided for him by the will.

Devolution of interest relinquished by owner.

**181.** An interest relinquished in the circumstances stated in section 180 shall devolve as if it had not been disposed of by the

the will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the will.

**182.** The provisions of sections 180 and 181 apply whether the testator does or does not believe that which he professes to dispose of by his will to be his own.

Testator's belief as to his ownership immaterial.

*Illustrations.*

(i) The farm of Sultanpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultanpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(ii) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel or to lose the estate.

(iii) A bequeaths to B 1,000 rupees, and to C an estate which will, under a settlement, belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate or to lose the legacy.

(iv) A, a person of the age of 18, domiciled in British India but owning real property in England, to which C is heir at law, bequeaths a legacy to C and, subject thereto, devises and bequeaths to B "all my property whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the will. C may claim his legacy without giving up the real property in England.

**183.** A bequest for a person's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Request for man's benefit how regarded for purpose of election.

*Illustration.*

The farm of Sultanpur Khurd being the property of B, A bequeathed it to C: and bequeathed another farm called Sultanpur Buzurg to his own executors with a direction that it should be sold and the proceeds applied in payment of B's debts. B must elect whether he will abide by the will, or keep his farm of Sultanpur Khurd in opposition to it.

**184.** A person taking no benefit directly under a will, but deriving a benefit under it indirectly, is not put to his election.

Person deriving benefit indirectly not put to election.

*Illustration.*

The lands of Sultanpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultanpur to B, and 1,000 rupees to C. C dies intestate shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the will. In that capacity he receives the legacy of 1,000 rupees and accounts to B for the rents of the lands of Sultanpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultanpur in opposition to the will.

**185. A**

Person taking in individual capacity under will may in other character elect to take in opposition.

**185.** A person who in his individual capacity takes a benefit under a will may, in another character, elect to take in opposition to the will.

*Illustration.*

The estate of Sultanpur is settled upon A for life, and after his death, upon B. A leaves the estate of Sultanpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultanpur in opposition to the will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the will.

Exception to provisions of last six sections.

**186.** Notwithstanding anything contained in sections 180 to 185, where a particular gift is expressed in the will to be in lieu of something belonging to the legatee which is also in terms disposed of by the will, then, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the will.

*Illustration.*

Under A's marriage-settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultanpur during her life. A by his will bequeaths to his wife an annuity of 200 rupees during her life, in lieu of her interest in the estate of Sultanpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000 rupees. The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity but not the legacy of 1,000 rupees.

When acceptance of benefit given by will constitutes election to take under will.

**187.** Acceptance of a benefit given by a will constitutes an election by the legatee to take under the will, if he had knowledge of his right to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

*Illustrations.*

(i) A is owner of an estate called Sultanpur Khurd, and has a life interest in another estate called Sultanpur Buzurg to which upon his death his son B will be absolutely entitled. The will of A gives the estate of Sultanpur Khurd to B, and the estate of Sultanpur Buzurg to C. B, in ignorance of his own right to the estate of Sultanpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultanpur Khurd. B has not confirmed the bequest of Sultanpur Buzurg to C.

(ii) B, the eldest son of A, is the possessor of an estate called Sultanpur. A bequeaths Sultanpur to C, and to B the residue of A's property. B having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultanpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultanpur to C.

Circumstances in which knowledge or waiver is presumed or inferred.

**188.** (1) Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has



has enjoyed for two years the benefits provided for him by the will without doing any act to express dissent.

(2) Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

*Illustration.*

A bequeaths to B an estate to which C is entitled, and to C a coal-mine. C takes possession of the mine and exhausts it. He has thereby confirmed the bequest of the estate to B.

189. If the legatee does not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the will, the representatives shall, upon the expiration of that period, require him to make his election; and, if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the will.

When testator's representatives may call upon legatee to elect.

190. In case of disability the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

Postponement of election in case of disability.

## CHAPTER XXIII.

### OF GIFTS IN CONTEMPLATION OF DEATH.

191. (1) A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by will.

Property transferable by gift made in contemplation of death.

(2) A gift is said to be made in contemplation of death where a man, who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness.

(3) Such a gift may be resumed by the giver; and shall not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

*Illustrations.*

(i) A, being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death,—

a watch :

a bond granted by C to A :

a bank-note :

a promissory note of the Government of India endorsed in blank:  
 a bill of exchange endorsed in blank:  
 certain mortgage-deeds.

A dies of the illness during which he delivered these articles.

B is entitled to—

the watch:  
 the debt secured by C's bond:  
 the bank-note:  
 the promissory note of the Government of India:  
 the bill of exchange:  
 the money secured by the mortgage-deeds.

(ii) A, being ill, and in expectation of death, delivers to B the key of a trunk or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents or to A's goods of bulk in the warehouse.

(iii) A, being ill, and in expectation of death, puts aside certain articles in separate parcels and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

## PART VII.

### Protection of Property of Deceased.

Person claiming right by succession to property of deceased may apply for relief against wrongful possession.

192. (1) If any person dies leaving property, moveable or immovable, any person claiming a right by succession thereto, or to any portion thereof, may make application to the District Judge of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

(2) Any agent, relative or near friend, or the Court of Wards in cases within their cognizance, may, in the event of any minor, or any disqualified or absent person being entitled by succession to such property as aforesaid, make the like application for relief.

Inquiry made by Judge.

193. The District Judge to whom such application is made shall, in the first place, examine the applicant on oath, and may make such further inquiry, if any, as he thinks necessary as to whether there is sufficient ground for believing that the party in possession or taking forcible means for seizing\* possession has no lawful title, and that the applicant, or the person

on

on whose behalf he applies, is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a suit, and that the application is made *bonâ fide*.

**194.** If the District Judge is satisfied that there is sufficient Procedure. ground for believing as aforesaid but not otherwise, he shall summon the party complained of, and give notice of vacant or disturbed possession by publication, and, after the expiration of a reasonable time, shall determine summarily the right to possession (subject to a suit as hereinafter provided) and shall deliver possession accordingly :

Provided that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the inquiry necessary for summoning the party complained of or not.

**195.** If it further appears upon such inquiry as aforesaid that danger is to be apprehended of the misappropriation or waste of the property before the summary proceeding can be determined, and that the delay in obtaining security from the party in possession or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he is the lawful owner, the District Judge may appoint one or more curators whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary proceeding and the confirmation or delivery of possession in consequence thereof :

Appointment of curator pending determination of proceeding.

Provided that, in the case of land, the Judge may delegate to the Collector, or to any officer subordinate to the Collector, the powers of a curator :

Provided, further, that every appointment of a curator in respect of any property shall be duly published.

**196.** The District Judge may authorise the curator to take possession of the property either generally, or until security is given by the party in possession, or until inventories of the property have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession :

Powers conferable on curator.

Provided that it shall be in the discretion of the Judge to allow the party in possession to continue in such possession on giving security or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

**197. (1)** Where

Prohibition of exercise of certain powers by curators. Payment of debts, etc., to curator.

197. (1) Where a certificate has been granted under Part X or under the Succession Certificate Act, 1889, or a grant of probate or letters of administration has been made, a curator appointed under this Part shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator.

(2) All 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.

Curator to give security and may receive remuneration.

198. (1) The District Judge shall take from the curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter provided, and may authorise him to receive out of the property such remuneration, in no case exceeding five per centum on the moveable property and on the annual profits of the immoveable property, as the District Judge thinks reasonable.

(2) All surplus money realized by the curator shall be paid into Court, and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary proceeding.

(3) Security shall be required from the curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed curator; but no delay in the taking of security shall prevent the Judge from immediately investing the curator with the powers of his office.

Report from Collector where estate includes revenue-paying land.

199. (1) Where the estate of the deceased person consists wholly or in part of land paying revenue to Government, in all matters regarding the propriety of summoning the party in possession, of appointing a curator, or of nominating individuals to that appointment, the District Judge shall demand a report from the Collector, and the Collector shall thereupon furnish the same:

Provided that in cases of urgency the Judge may proceed, in the first instance, without such report.

(2) The Judge shall not be obliged to act in conformity with any such report, but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the High Court, and the High Court, if it is dissatisfied

dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

200. The curator shall be subject to all orders of the District Judge regarding the institution or the defence of suits, and all suits may be instituted or defended in the name of the curator on behalf of the estate :

Institution and defence of suits

Provided that an express authority shall be requisite in the order of the curator's appointment for the collection of debts or rents; but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.

201. Pending the custody of the property by the curator, the District Judge may make such allowances to parties having a *prima facie* right thereto as upon a summary investigation of the rights and circumstances of the parties interested he considers necessary, and may, at his discretion, take security for the repayment thereof with interest, in the event of the party being found, upon the adjudication of the summary proceeding, not to be entitled thereto.

Allowances to apparent owners pending custody by curator.

202. The curator shall file monthly accounts in abstract, and shall, on the expiry of each period of three months, if his administration lasts so long, and, upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the District Judge.

Accounts to be filed by curator.

203. (1) The accounts of the curator shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by the curator.

Inspection of accounts and right of interested party to keep duplicate.

(2) If it is found that the accounts of the curator are in arrear, or that they are erroneous or incomplete, or if the curator does not produce them whenever he is ordered to do so by the District Judge, he shall be punishable with fine not exceeding one thousand rupees for every such default.

204. If the Judge of any district has appointed a curator, in respect of the whole of the property of a deceased person, such appointment shall preclude the Judge of any other district within the same province from appointing any other curator, but the appointment of a curator in respect of a portion of the property of the deceased shall not preclude the appointment within the same province of another curator in respect of the residue or any portion thereof :

Bar to appointment of second curator for same property.

Provided

Provided that no Judge shall appoint a curator or entertain a summary proceeding in respect of property which is the subject of a summary proceeding previously instituted under this Part before another Judge :

Provided, further, that if two or more curators are appointed by different Judges for several parts of an estate, the High Court may make such order as it thinks fit for the appointment of one curator of the whole property.

Limitation of time for application for curator.

**205.** An application under this Part to the District Judge must be made within six months of the death of the proprietor whose property is claimed by right in succession.

Bar to enforcement of Part against public settlement or legal directions by deceased.

**206.** Nothing in this Part shall be deemed to authorise the contravention of any public act of settlement or of any legal directions given by a deceased proprietor of any property for the possession of his property after his decease in the event of minority or otherwise, and, in every such case, as soon as the Judge having jurisdiction over the property of a deceased person is satisfied of the existence of such directions, he shall give effect thereto.

Court of Wards to be made curator in case of minors having property subject to its jurisdiction.

**207.** Nothing in this Part shall be deemed to authorise any disturbance of the possession of a Court of Wards of any property; and in case a minor, or other disqualified person whose property is subject to the Court of Wards, is the party on whose behalf application is made under this Part, the District Judge, if he determines to summon the party in possession and to appoint a curator, shall invest the Court of Wards with the curatorship of the estate pending the proceeding without taking security as aforesaid; and if the minor or other disqualified person, upon the adjudication of the summary proceeding, appears to be entitled to the property, possession shall be delivered to the Court of Wards.

Saving of right to bring suit.

**208.** Nothing contained in this Part shall be any impediment to the bringing of a suit either by the party whose application may have been rejected before or after the summoning of the party in possession, or by the party who may have been evicted from the possession under this Part.

Effect of decision of summary proceeding.

**209.** The decision of a District Judge in a summary proceeding under this Part shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, and shall not be subject to any appeal or review.

**210.** The

**210.** The Local Government may appoint public curators for any district or number of districts; and the District Judge having jurisdiction shall nominate such public curators in all cases where the choice of a curator is left discretionary with him under this Part.

Appointment  
of public  
curators.

### PART VIII.

#### Representative title to property of deceased on succession.

**211.** (1) The executor or administrator, as the case may be, of a deceased person is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Character and  
property of  
executor or  
administrator  
as such.

(2) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nothing herein contained shall vest in an executor or administrator any property of the deceased person which would otherwise have passed by survivorship to some other person.

**212.** (1) No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

Right to in-  
testate's prop-  
erty.

(2) This section shall not apply in the case of the intestacy of a Hindu, Muhammadan, Buddhist, Sikh, Jaina or Indian Christian.

**213.** (1) No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction in British India has granted probate of the will under which the right is claimed, or has granted letters of administration with the will or with a copy of an authenticated copy of the will annexed.

Right as exe-  
cutor or legatee  
when establish-  
ed.

(2) This section shall not apply in the case of wills made by Muhammadans, and shall only apply in the case of wills made by any Hindu, Buddhist, Sikh or Jaina where such wills are of the class specified in section 57.

**214.** (1) No Court shall—

(a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effects of the deceased person or to any part thereof, or

Proof of re-  
presentative  
title a condition  
precedent to re-  
covery through  
the Courts of  
debts from  
debtors of de-  
ceased persons.

(b) proceed,

(b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 31 or section 32 of the Administrator General's Act, 1913, and having III of 1913. the debt mentioned therein, or
- (iii) a succession certificate granted under Part X and having the debt specified therein, or
- (iv) a certificate granted under the Succession Certificate Act, 1889, or
- (v) a certificate granted under Bombay Regulation No. VII of 1889. VIII of 1827, and, if granted after the first day of May, 1889, having the debt specified therein.

(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.

Effect on certificate of subsequent probate or letters of administration.

**215.** (1) A grant of probate or letters of administration in respect of an estate shall be deemed to supersede any certificate previously granted under Part X or under the Succession Certificate Act, 1889, or Bombay Regulation No. VIII of 1827, in VII of 1889. 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 any such 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:

Provided that, when any certificate is superseded under this section, all payments made to the holder of such certificate in ignorance of such supersession shall be held good against claims under the probate or letters of administration.

Grantee of probate or administration alone to sue, etc., until same revoked.

**216.** After any grant of probate or letters of administration, no other than the person to whom the same may have been granted shall have power to sue or prosecute any suit, or otherwise

wise



wise act as representative of the deceased, throughout the province in which the same may have been granted, until such probate or letters of administration has or have been recalled or revoked.

## PART IX.

### Probate, Letters of Administration and Administration of Assets of Deceased.

**217.** Save as otherwise provided by this Act or by any other law for the time being in force, all grants of probate and letters of administration with the will annexed and the administration of the assets of the deceased in cases of intestate succession shall be made or carried out, as the case may be, in accordance with the provisions of this Part.

Application of Part.

#### CHAPTER I.

##### OF GRANT OF PROBATE AND LETTERS OF ADMINISTRATION.

**218.** (1) If the deceased has died intestate and was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

To whom administration may be granted, where deceased is a Hindu, Muhammadan, Buddhist, Sikh Jaina or exempted person.

(2) When several such persons apply for such administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(3) When no such person applies, it may be granted to a creditor of the deceased.

**219.** If the deceased has died intestate and was not a person belonging to any of the classes referred to in section 218, those who are connected with him, either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated, namely:—

Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.

(a) If the deceased has left a widow, administration shall be granted to the widow, unless the Court sees cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

*Illustrations.*

*Illustrations.*

(i) The widow is a lunatic or has committed adultery or has been barred by her marriage settlement of all interest in her husband's estate. There is cause for excluding her from the administration.

(ii) The widow has married again since the decease of her husband. This is not good cause for her exclusion.

(b) If the Judge thinks proper, he may associate any person or persons with the widow in the administration who would be entitled solely to the administration if there were no widow.

(c) If there is no widow, or if the Court sees cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate:

Provided that, when the mother of the deceased is one of the class of persons so entitled, she shall be solely entitled to administration.

(d) Those who stand in equal degree of kindred to the deceased are equally entitled to administration.

(e) The husband surviving his wife has the same right of administration of her estate as the widow has in respect of the estate of her husband.

(f) When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

(g) Where the deceased has left property in British India, letters of administration shall be granted according to the foregoing rules, notwithstanding that he had his domicile in a country in which the law relating to testate and intestate succession differs from the law of British India.

Effect of letters of administration.

**220.** Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts not validated by administration.

**221.** Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

Probate only to appointed executor.

**222.** (1) Probate shall be granted only to an executor appointed by the will.

(2) The appointment may be expressed or by necessary implication.

*Illustrations.*

## Illustrations.

(i) A wills that C be his executor if B will not. B is appointed executor by implication.

(ii) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law C, and adds "but should the within-named C be not living I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(iii) A appoints several persons executors of his will and codicils and his nephew residuary legatee, and in another codicil are these words,— "I appoint my nephew my residuary legatee to discharge all lawful demands against my will and codicils signed of different dates." The nephew is appointed an executor by implication.

**223.** Probate cannot be granted to any person who is a minor or is of unsound mind, nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, to a married woman without the previous consent of her husband.

Persons to whom probate cannot be granted.

**224.** When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Grant of probate to several executors simultaneously or at different times.

## Illustration.

A is an executor of B's will by express appointment and C an executor of it by implication. Probate may be granted to A and C at the same time or to A first and then to C, or to C first and then to A.

**225.** (1) If a codicil is discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will.

Separate probate of codicil discovered after grant of probate.

(2) If different executors are appointed by the codicil, the probate of the will shall be revoked, and a new probate granted of the will and the codicil together.

**226.** When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Accrual of representation to surviving executor.

**227.** Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Effect of probate.

**228.** When a will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the Province, whether within or beyond the limits of His Majesty's dominions, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed.

Administration, with copy annexed, of authenticated copy of will proved abroad.

**229.** When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted

Grant of administration where executor has not renounced.

granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship:

Provided that, when one or more of several executors have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Form and effect of renunciation of executorship.

**230.** The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor.

Procedure where executor renounces or fails to accept within time limited.

**231.** If an executor renounces, or fails to accept an executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration, with a copy of the will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Grant of administration to universal or residuary legatees.

**232.** When—

- (a) the deceased has made a will, but has not appointed an executor, or
- (b) the deceased has appointed an executor who is legally incapable or refuses to act, or who has died before the testator or before he has proved the will, or
- (c) the executor dies after having proved the will, but before he has administered all the estate of the deceased,

an universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Right to administration of representative of deceased residuary legatee.

**233.** When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee.

Grant of administration where no executor, nor residuary legatee nor representative of such legatee.

**234.** When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

**235.** Letters

**235.** Letters of administration with the will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next-of-kin to accept or refuse letters of administration.

Citation before grant of administration to legatee other than universal or residuary.

**236.** Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jain or an exempted person, to a married woman without the previous consent of her husband.

To whom administration may not be granted.

## CHAPTER II.

### OF LIMITED GRANTS.

#### *Grants limited in duration.*

**237.** When a will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it is produced.

Probate of copy or draft of lost will.

**238.** When a will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents if they can be established by evidence.

Probate of contents of lost or destroyed will.

**239.** When the will is in the possession of a person residing out of the province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it is produced.

Probate of copy where original exists.

**240.** Where no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it is produced.

Administration until will produced.

#### *Grants for the use and benefit of others having right.*

**241.** When any executor is absent from the province in which application is made, and there is no executor within the

Administration, with will annexed, to attorney of absent executor.

the province willing to act, letters of administration, with the will annexed, may be granted to the attorney or agent of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with will annexed, to attorney of absent person who, if present, would be entitled to administer.

242. When any person to whom, if present, letters of administration, with the will annexed, might be granted, is absent from the province, letters of administration, with the will annexed, may be granted to his attorney or agent, limited as mentioned in section 241.

Administration to attorney of absent person entitled to administer in case of intestacy.

243. When a person entitled to administration in case of intestacy is absent from the province, and no person equally entitled is willing to act, letters of administration may be granted to the attorney or agent of the absent person, limited as mentioned in section 241.

Administration during minority of sole executor or residuary legatee.

244. When a minor is sole executor or sole residuary legatee, letters of administration, with the will annexed, may be granted to the legal guardian of such minor or to such other person as the Court may think fit until the minor has attained his majority at which period, and not before, probate of the will shall be granted to him.

Administration during minority of several executors or residuary legatees.

245. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have attained his majority.

Administration for use and benefit of lunatic or minor.

246. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates applicable in the case of the deceased, is a minor or lunatic, letters of administration, with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there is no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the minor or lunatic until he attains majority or becomes of sound mind, as the case may be.

Administration pendente lite.

247. Pending any suit touching the validity of the will of a deceased person or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall

shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

*Grants for special purposes.*

248. If an executor is appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and if he should appoint an attorney or agent to take administration on his behalf, the letters of administration, with the will annexed, shall be limited accordingly.

Probate limited to purpose specified in will.

249. If an executor appointed generally gives an authority to an attorney or agent to prove a will on his behalf, and the authority is limited to a particular purpose, the letters of administration, with the will annexed, shall be limited accordingly.

Administration, with will annexed, limited to particular purpose.

250. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the beneficiary, or to some other person on his behalf.

Administration limited to property in which person has beneficial interest.

251. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to suit.

252. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the province within which the Court which has granted the probate or letters of administration exercises jurisdiction, the Court may grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to purpose of becoming party to suit to be brought against administrator.

Administration limited to collection and preservation of deceased's property.

253. In any case in which it appears necessary for preserving the property of a deceased person, the Court within whose jurisdiction any of the property is situate may grant to any person, whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased and to the giving of discharges for debts due to his estate, subject to the directions of the Court.

Appointment, as administrator, of person other than one who, in ordinary circumstances, would be entitled to administration.

254. (1) When a person has died intestate, or leaving a will of which there is no executor willing and competent to act or where the executor is, at the time of the death of such person, resident out of the province, and it appears to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who, in ordinary circumstances, would be entitled to a grant of administration, the Court may, in its discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as it thinks fit to be administrator.

(2) In every such case letters of administration may be limited or not as the Court thinks fit.

Grants with exception.

Probate or administration, with will annexed, subject to exception.

255. Whenever the nature of the case requires that an exception be made, probate of a will, or letters of administration with the will annexed, shall be granted subject to such exception.

Administration with exception.

256. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

Grants of the rest.

Probate or administration of rest.

257. Whenever a grant with exception of probate, or of letters of administration with or without the will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

Grant of effects unadministered.

Grant of effects unadministered.

258. If an executor to whom probate has been granted has died, leaving a part of the testator's estate unadministered, a new



new representative may be appointed for the purpose of administering such part of the estate.

**259.** In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Rules as to grants of effects unadministered.

**260.** When a limited grant has expired by efflux of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

Administration when limited grant expired and still some part of estate unadministered.

### CHAPTER III.

#### ALTERATION AND REVOCATION OF GRANTS.

**261.** Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

What errors may be rectified by Court.

**262.** If, after the grant of letters of administration with the will annexed, a codicil is discovered, it may be added to the grant on due proof and identification, and the grant may be altered and amended accordingly.

Procedure where codicil discovered after grant of administration with will annexed.

**263.** The grant of probate or letters of administration may be revoked or annulled for just cause.

Revocation or annulment for just cause.

*Explanation.*—Just cause shall be deemed to exist where—

- (a) the proceedings to obtain the grant were defective in substance; or
- (b) the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; or
- (c) the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; or
- (d) the grant has become useless and inoperative through circumstances; or

(e) the

- (e) the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Part, or has exhibited under that Chapter an inventory or account which is untrue in a material respect.

*Illustrations.*

- (i) The Court by which the grant was made had no jurisdiction.  
 (ii) The grant was made without citing parties who ought to have been cited.  
 (iii) The will of which probate was obtained was forged or revoked.  
 (iv) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.  
 (v) A has taken administration to the estate of B as if he had died intestate, but a will has since been discovered.  
 (vi) Since probate was granted, a later will has been discovered.  
 (vii) Since probate was granted, a codicil has been discovered which revokes or adds to the appointment of executors under the will.  
 (viii) The person to whom probate was, or letters of administration were, granted has subsequently become of unsound mind.

CHAPTER IV.

OF THE PRACTICE IN GRANTING AND REVOKING PROBATES AND LETTERS OF ADMINISTRATION.

Jurisdiction of District Judge in granting and revoking probates, etc.

264. (1) The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his district.

(2) Except in cases to which section 57 applies, no Court in any local area beyond the limits of the towns of Calcutta, Madras and Bombay, and the province of Burma, shall, where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the Local Government has, by a notification in the local official Gazette, authorised it so to do.

Power to appoint Delegate of District Judge to deal with non-contentious cases.

265. (1) The High Court may appoint such judicial officers within any district as it thinks fit to act for the District Judge as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may prescribe:

Provided

Provided that, in the case of High Courts not established by Royal Charter, such appointment shall not be without the previous sanction of the Local Government.

(2) Persons so appointed shall be called "District Delegates".

266. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding pending in his Court.

District Judge's powers as to grant of probate and administration.

267. (1) The District Judge may order any person to produce and bring into Court any paper or writing, being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person.

District Judge may order person to produce testamentary papers.

(2) If it is not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same.

(3) Such person shall be bound to answer truly such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit and had made such default.

(4) The costs of the proceeding shall be in the discretion of the Judge.

268. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, save as hereinafter otherwise provided, be regulated, so far as the circumstances of the case permit, by the Code of Civil Procedure, 1908.

Proceedings of District Judge's Court in relation to probate and administration.

269. (1) Until probate is granted of the will of a deceased person, or an administrator of his estate is constituted, the District Judge, within whose jurisdiction any part of the property of the deceased person is situate, is authorised and required to interfere for the protection of such property at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs

When and how District Judge to interfere for protection of property.

incurs any risk of loss or damage; and for that purpose, if he thinks fit, to appoint an officer to take and keep possession of the property.

(2) This section shall not apply when the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nor shall it apply to any part of the property of an Indian Christian who has died intestate.

When probate or administration may be granted by District Judge.

270. Probate of the will or letters of administration to the estate of a deceased person may be granted by a District Judge under the seal of his Court, if it appears by a petition, verified as hereinafter provided, of the person applying for the same that the testator or intestate, as the case may be, at the time of his decease had a fixed place of abode, or any property, moveable or immovable, within the jurisdiction of the Judge.

Disposal of application made to Judge of district in which deceased had no fixed abode.

271. When the application is made to the Judge of a district in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another district, or, where the application is for letters of administration, to grant them absolutely, or limited to the property within his own jurisdiction.

Probate and letters of administration may be granted by Delegate.

272. Probate and letters of administration may, upon application for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition, verified as hereinafter provided, that the testator or intestate, as the case may be, at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

Conclusiveness of probate or letters of administration.

273. Probate or letters of administration shall have effect over all the property and estate, moveable or immovable, of the deceased, throughout the province in which the same is or are granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors, paying their debts and all persons delivering up such property to the person to whom such probate or letters of administration have been granted:

Provided that probates and letters of administration granted—

- (a) by a High Court, or
- (b) by a District Judge, where the deceased at the time of his death had a fixed place of abode situate within

within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India.

**274.** (1) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 273, the High Court or District Judge shall send a certificate thereof to the following Courts, namely:—

Transmission to High Courts of certificate of grants under proviso to section 273.

- (a) when the grant has been made by a High Court, to each of the other High Courts;
- (b) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(2) Every certificate referred to in sub-section (1) shall be made as nearly as circumstances admit in the form set forth in Schedule IV, and such certificate shall be filed by the High Court receiving the same.

(3) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 276 and 278, to be situate within the jurisdiction of a District Judge in another province, the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same.

**275.** The application for probate or letters of administration, if made and verified in the manner hereinafter provided, shall be conclusive for the purpose of authorising the grant of probate or administration; and no such grant shall be impeached by reason only that the testator or intestate had no fixed place of abode or no property within the district at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Conclusiveness of application for probate or administration if properly made and verified.

**276.** (1) Application for probate or for letters of administration, with the will annexed, shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application

Petition for probate.

is

is made, with the will or, in the cases mentioned in sections 237, 238, and 239, a copy, draft, or statement of the contents thereof, annexed, and stating—

- (a) the time of the testator's death,
- (b) that the writing annexed is his last will and testament,
- (c) that it was duly executed,
- (d) the amount of assets which are likely to come to the petitioner's hands, and
- (e) when the application is for probate, that the petitioner is the executor named in the will.

(2) In addition to these particulars, the petition shall further state,—

- (a) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and
- (b) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(3) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another province, the petition shall further state the amount of such assets in each province and the District Judges within whose jurisdiction such assets are situate.

In what cases translation of will to be annexed to petition. Verification of translation by person other than Court translator.

277. In cases wherein the will, copy or draft, is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or, if the will, copy or draft, is in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner, namely:—

“ I (A. B.) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof.”

278. (1) Application

**278.** (1) Application for letters of administration shall be made by petition distinctly written as aforesaid and stating—

Petition for letters of administration

- (a) the time and place of the deceased's death;
- (b) the family or other relatives of the deceased, and their respective residences;
- (c) the right in which the petitioner claims;
- (d) the amount of assets which are likely to come to the petitioner's hands;
- (e) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and
- (f) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(2) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another province, the petition shall further state the amount of such assets in each province and the District Judges within whose jurisdiction such assets are situate.

**279.** (1) Every person applying to any of the Courts mentioned in the proviso to section 273 for probate of a will or letters of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 276 and section 278, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

Addition to statement in petition, etc., for probate or letters of administration in certain cases.

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(2) The Court to which any such application is made under the proviso to section 273 may, if it thinks fit, reject the same.

**280.** The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader,

Petition for probate, etc., to be signed and verified.  
if

if any, and shall be verified by the petitioner in the following manner, namely:—

“I (A. B.), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief.”

Verification of petition for probate, by one witness to will.

**281.** Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the will (when procurable) in the manner or to the effect following, namely:—

“I (C. D.), one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*or* that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence).

Punishment for false averment in petition or declaration.

**282.** If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false, such person shall be deemed to have committed an offence under section 193 of the Indian Penal Code.

XLV of 1860.

Powers of District Judge.

**283.** (1) In all cases the District Judge or District Delegate may, if he thinks proper,—

- (a) examine the petitioner in person, upon oath;
- (b) require further evidence of the due execution of the will or the right of the petitioner to the letters of administration, as the case may be;
- (c) issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

(2) The citation shall be fixed up in some conspicuous part of the court-house, and also in the office of the Collector of the district and otherwise published or made known in such manner as the Judge or District Delegate issuing the same may direct.

(3) Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner

as



as if it were a citation issued by himself, and shall certify such publication to the District Judge who issued the citation.

**284.** (1) Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate. Caveats against grant of probate or administration.

(2) Immediately on any caveat being lodged with any District Delegate, he shall send copy thereof to the District Judge.

(3) Immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased had a fixed place of abode at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

(4) The caveat shall be made as nearly as circumstances admit in the form set forth in Schedule V. Form of caveat.

**285.** No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge or District Delegate to whom the application has been made or notice has been given of its entry with some other Delegate, until after such notice to the person by whom the same has been entered as the Court may think reasonable. After entry of caveat, no proceeding taken on petition until after notice to caveator.

**286.** A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court. District Delegate when not to grant probate or administration.

*Explanation.*—“Contention” means the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf, to oppose the proceeding.

**287.** In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, Power to transmit statement to District Judge in doubtful cases where no contention.

tion, leaving the party applying for the grant in question to make application to the Judge.

Procedure where there is contention, or District Delegate thinks probate or letters of administration should be refused in his Court.

288. In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents which may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge, unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorised to do; and, in that case, the same shall be sent by him to the District Judge.

Grant of probate to be under seal of Court.

289. When it appears to the District Judge or District Delegate that probate of a will should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VI.

Grant of letters of administration to be under seal of Court.

290. When it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VII.

Administration-bond.

291. (1) Every person to whom any grant of letters of administration, other than a grant under section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct.

(2) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person—

(a) the exception made by sub-section (1) in respect of a grant under section 241 shall not operate;

(b) the District Judge may demand a like bond from any person to whom probate is granted.

Assignment of administration-bond.

292. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his or their own name or names

names as if the same had been originally given to him or them instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustees for all persons interested, the full amount recoverable in respect of any breach thereof.

**293.** No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Time for grant of probate and administration.

**294.** (1) Every District Judge, or District Delegate, shall file and preserve all original wills, of which probate or letters of administration with the will annexed may be granted by him, among the records of his Court, until some public registry for wills is established.

Filing of original wills of which probate or administration with will annexed granted.

(2) The Local Government shall make regulations for the preservation and inspection of the wills so filed.

**295.** In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, 1908, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who has appeared to oppose the grant shall be the defendant.

Procedure in contentious cases.

**296.** (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

Surrender of revoked probate or letters of administration.

(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

**297.** When a grant of probate or letters of administration is revoked, all payments *bonâ fide* made to any executor or administrator under such grant before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who has acted under any such revoked grant may retain and reimburse himself in respect of any payments made by him which the person to whom probate or letters of administration may afterwards be granted might have lawfully made.

Payment to executor or administrator before probate or administration revoked.

**298.** Notwithstanding

Power to  
refuse letters of  
administration.

**298.** Notwithstanding anything hereinbefore contained, it shall, where the deceased was a Muhammadan, Buddhist or exempted person, or a Hindu, Sikh or Jaina to whom section 57 does not apply, be in the discretion of the Court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.

Appeals from  
orders of  
District Judge.

**299.** Every order made by a District Judge by virtue of the powers hereby conferred upon him shall be subject to appeal to the High Court in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals.

V of 1908.

Concurrent  
jurisdiction of  
High Court.

**300.** (1) The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

(2) Except in cases to which section 57 applies, no High Court, in exercise of the concurrent jurisdiction hereby conferred over any local area beyond the limits of the towns of Calcutta, Madras and Bombay, and the province of Burma, shall, where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the Local Government has, by a notification in the local official Gazette, authorised it so to do.

Removal of  
executor or  
administrator  
and provision  
for successor.

**301.** The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.

Directions to  
executor or  
administrator.

**302.** Where probate or letters of administration in respect of any estate has or have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof.

## CHAPTER V.

### OF EXECUTORS OF THEIR OWN WRONG.

Executor of his  
own wrong.

**303.** A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in

in existence, thereby makes himself an executor of his own wrong.

*Exceptions.*—(1) Intermeddling with the goods of the deceased for the purpose of preserving them or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

(2) Dealing in the ordinary course of business with goods of the deceased received from another does not make an executor of his own wrong.

*Illustrations.*

(i) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy or receives payment of the debts of the deceased. He is an executor of his own wrong.

(ii) A, having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(iii) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

**304.** When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands after deducting payments made to the rightful executor or administrator, and payments made in due course of administration.

Liability of executor of his own wrong.

## CHAPTER VI.

### OF THE POWERS OF AN EXECUTOR OR ADMINISTRATOR.

**305.** An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same power for the recovery of debts as the deceased had when living.

In respect of causes of action surviving deceased and rents due at death.

**306.** All demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault, as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory.

Demands and rights of action of or against deceased survive to and against executor or administrator.

*Illustrations.*

(i) A collision takes place on a railway in consequence of some neglect or default of an official, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(ii) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power of executor or administrator to dispose of property.

**307.** (1) Subject to the provisions of sub-section (2), an executor or administrator has power to dispose of the property of the deceased, vested in him under section 211, either wholly or in part, in such manner as he may think fit.

*Illustrations.*

(i) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(ii) The executor in the exercise of his discretion mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

(2) If the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, the general power conferred by sub-section (1) shall be subject to the following restrictions and conditions, namely:—

(i) 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.

(ii) 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 211, or

(b) lease any such property for a term exceeding five years.

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property.

(3) Before

(3) Before any probate or letters of administration is or are granted in such a case, there shall be endorsed thereon or annexed thereto a copy of sub-section (1) and clauses (i) and (iii) of sub-section (2) or of sub-section (1) and clauses (ii) and (iii) of sub-section (2), as the case may be.

(4) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by sub-section (3) not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.

**308.** An executor or administrator may, in addition to, General powers of administration. and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

- (a) on such acts as may be necessary for the proper care or management of any property belonging to any estate administered by him, and
- (b) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

**309.** An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913. Commission or agency charges.

**310.** If any executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold. Purchase by executor or administrator of deceased's property.

**311.** When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the will or taken out administration. Powers of several executors or administrators exercisable by one.

*Illustrations.*

- (i) One of several executors has power to release a debt due to the deceased.
- (ii) One has power to surrender a lease.
- (iii) One has power to sell the property of the deceased whether moveable or immoveable.
- (iv) One has power to assent to a legacy.

(v) One

(v) One has power to endorse a promissory note payable to the deceased.

(vi) The will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

**312.** Upon the death of one or more of several executors or administrators, in the absence of any direction to the contrary in the will or grant of letters of administration, all the powers of the office become vested in the survivors or survivor.

Powers of administrator of effects unadministered.

**313.** The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

**314.** An administrator during minority has all the powers of an ordinary administrator.

Powers of married executrix or administratrix.

**315.** When a grant of probate or letters of administration has been made to a married woman, she has all the powers of an ordinary executor or administrator.

## CHAPTER VII.

### OF THE DUTIES OF AN EXECUTOR OR ADMINISTRATOR.

As to deceased's funeral.

**316.** It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

Inventory and account.

**317.** (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may appoint, exhibit in that Court 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 shall in like manner, within one year from the grant or within such further time as the said Court may appoint, 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) The High Court may prescribe the form in which an inventory or account under this section is to be exhibited.

(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally



intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.

318. In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India, the executor or administrator shall include in the inventory of the effects of the deceased all his moveable and immoveable property situate in British India, and the value of such property situate in each province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India.

Inventory to include property in any part of British India in certain cases.

319. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

As to property of, and debts owing to, deceased.

320. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, shall be paid before all debts.

Expenses to be paid before all debts.

321. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, shall be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses.

322. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant shall next be paid, and then the other debts of the deceased according to their respective priorities (if any).

Wages for certain services to be next paid, and then other debts.

323. Save as aforesaid, no creditor shall have a right of priority over another; but the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably as far as the assets of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

324. (1) If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of British India.

Application of moveable property to payment of debts where domicile not in British India.

(2) No

(2) No creditor who has received payment of a part of his debt by virtue of sub-section (1) shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

(3) This section shall not apply where the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

*Illustration.*

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees which are to be distributed rateably amongst all the creditors without distinction, in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

**325.** Debts of every description must be paid before any legacy.

Executor or administrator not bound to pay legacies without indemnity.

**326.** If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Abatement of general legacies.

**327.** If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and, in the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another, or to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Non-abatement of specific legacy when assets sufficient to pay debts.

**328.** Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under demonstrative legacy when assets sufficient to pay debts and necessary expenses.

**329.** Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for

of 1925.] *Indian Succession.*

for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

**330.** If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts. Rateable abatement of specific legacies.

*Illustration.*

A has bequeathed to B a diamond ring valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator; and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

**331.** For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies. Legacies treated as general for purpose of abatement.

## CHAPTER VIII.

### OF ASSENT TO A LEGACY BY EXECUTOR OR ADMINISTRATOR.

**332.** The assent of the executor or administrator is necessary to complete a legatee's title to his legacy. Assent necessary to complete legatee's title.

*Illustrations.*

(i) A by his will bequeaths to B his Government paper which is in deposit with the Imperial Bank of India. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(ii) A by his will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor or administrator.

**333.** (1) The assent of the executor or administrator to a specific bequest shall be sufficient to divest his interest as executor or administrator therein, and to transfer the subject of the bequest of the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way. Effect of executor's assent to specific legacy.

(2) This assent may be verbal, and it may be either express or implied from the conduct of the executor or administrator.

*Illustrations.*

(i) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(ii) The

121

(ii) The interest of a fund is directed by the will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(iii) A bequest is made of a fund to A and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(iv) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(v) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

**334.** The assent of an executor or administrator to a legacy may be conditional, and if the condition is one which he has a right to enforce, and it is not performed, there is no assent.

*Illustrations.*

(i) A bequeaths to B his lands of Sultanpur, which at the date of the will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(ii) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

**335.** (1) When the executor or administrator is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may, in like manner, be expressed or implied.

(2) Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor or administrator.

*Illustration.*

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Effect of executor's assent.

**336.** The assent of the executor or administrator to a legacy gives effect to it from the death of the testator.

*Illustrations.*

(i) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser and completes his title to the legacy.

(ii) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to his legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

**337. An**

**337.** An executor or administrator is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Executor when to deliver legacies.

*Illustration.*

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

-CHAPTER IX.

OF THE PAYMENT AND APPORTIONMENT OF ANNUITIES.

**338.** Where an annuity is given by a will and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

Commencement of annuity when no time fixed by will.

**339.** Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor or administrator thinks fit, be paid when due, but the executor or administrator shall not be bound to pay it till the end of the year.

When annuity, to be paid quarterly or monthly, first falls due.

**340.** (1) Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorises the first payment to be made.

Dates of successive payments when first payment directed to be made within a given time or on day certain: death of annuitant before date of payment.

(2) If the annuitant dies in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

CHAPTER X.

OF THE INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES.

**341.** Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may by any general rule authorise or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of sum bequeathed where legacy, not specific, given for life.

**342.** (1) Where a general legacy is given to be paid at a future time, the executor or administrator shall invest a sum sufficient

Investment of general legacy, to be paid at future time:

sufficient to meet it in securities of the kind mentioned in section 341.

(2) The intermediate interest shall form part of the residue of the testator's estate.

disposal of intermediate interest.

Procedure when no fund charged with, or appropriated to, annuity.

**343.** Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in securities of the kind mentioned in section 341.

Transfer to residuary legatee of contingent bequest.

**344.** Where a bequest is contingent, the executor or administrator is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee, if any, on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed for life, without direction to invest in particular securities.

**345.** (1) Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in securities of the kind mentioned in section 341 shall be converted into money and invested in such securities.

(2) This section shall not apply if the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

Investment of residue bequeathed for life, without direction to invest in specified securities.

**346.** Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Time and manner of conversion and investment.

**347.** Such conversion and investment as are contemplated by sections 345 and 346 shall be made at such times and in such manner as the executor or administrator thinks fit; and, until such conversion and investment are completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market-value (to be computed as at the date of the testator's death) of such part of the fund as has not been so invested:

Provided that the rate of interest prior to completion of investment shall be six per cent. per annum when the testator

was

was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

348. (1) Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom or by whose District Delegate the probate was, or letters of administration with the will annexed were, granted, to the account of the legatee, unless the legatee is a ward of the Court of Wards.

Procedure where minor entitled to immediate payment of possession of bequest, and no direction to pay to person on his behalf.

(2) If the legatee is a ward of the Court of Wards, the legacy shall be paid to the Court of Wards to his account.

(3) Such payment into the Court of the District Judge, or to the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid.

(4) Money when paid in under this section shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

## CHAPTER XI.

### OF THE PRODUCE AND INTEREST OF LEGACIES.

349. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Legatee's title to produce of specific legacy.

*Exception.*—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

#### *Illustrations.*

(i) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn or some of the ewes produce lambs. The wool and lambs are the property of B.

(ii) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(iii) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the notes, but the interest which accrues in respect of them between the testator's death and A's completing 18, form part of the residue.

350. The

Residuary legatee's title to produce of residuary fund.

**350.** The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

*Exception.*—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

*Illustrations.*

(i) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(ii) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time fixed for payment of general legacy.

**351.** Where no time has been fixed for the payment of a general legacy, interest begins to run from expiration of one year from the testator's death.

*Exception.*—(1) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time fixed.

**352.** Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

*Exception.*—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance, or unless the will contains a direction to the contrary.

Rate of interest.

**353.** The rate of interest shall be four per cent. per annum in all cases except when the testator was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, in which case it shall be six per cent. per annum.

No interest on arrears of annuity within first

**354.** No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period



period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

**355.** Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

year after  
testator's  
death.

Interest on  
sum to be  
invested to  
produce  
annuity.

## CHAPTER XII.

### OF THE REFUNDING OF LEGACIES.

**356.** When an executor or administrator has paid a legacy under the order of a Court, he is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

Refund of  
legacy paid  
under Courts  
orders.

**357.** When an executor or administrator has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

No refund  
if paid  
voluntarily.

**358.** When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor or administrator has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under section 137 for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor or administrator, but those to whom he has paid it are liable to refund the amount.

Refund when  
legacy  
has become  
due on per-  
formance of  
condition  
within fur-  
ther time  
allowed  
under section  
137.

**359.** When the executor or administrator has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

When each  
legatee com-  
pellable to  
refund in  
proportion.

**360.** Where an executor or administrator has given such notices as the High Court may, by any general rule, prescribe or, if no such rule has been made, as the High Court would give in an administration-suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution:

Distribution  
of assets.

Provided

Provided that nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may call upon legatee to refund.

**361.** A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor or administrator was voluntary or not.

When legatee not satisfied or compelled to refund under section 361, cannot oblige one paid in full to refund.

**362.** If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under section 361, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When unsatisfied legatee must first proceed against executor, if solvent.

**363.** If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor or administrator if he is solvent; but if the executor or administrator is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to refunding of one legatee to another.

**364.** The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

*Illustration.*

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees and, if properly administered, would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

**365.** The refunding shall in all cases be without interest.

Residue after usual payments to be paid to residuary legatee.

**366.** The surplus or residue of the deceased's property, after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will.

Transfer of assets from British India to executor

**367.** Where a person not having his domicile in British India has died leaving assets both in British India and in the country

country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 360, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

or adminis-  
trator in  
country of  
domicile for  
distribution.

### CHAPTER XIII.

#### OF THE LIABILITY OF AN EXECUTOR OR ADMINISTRATOR FOR DEVASTATION.

**368.** When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Liability of  
executor or  
administrator  
for devasta-  
tion.

##### *Illustrations.*

- (i) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.
- (ii) The deceased had a valuable lease renewable by notice which the executor neglects to give at the proper time. The executor is liable to make good the loss.
- (iii) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

**369.** When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Liability of  
executor or  
administrator  
for neglect  
to get any  
part of  
property.

##### *Illustrations.*

- (i) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.
- (ii) The executor neglects to sue for a debt till the debtor is able to plead that the claim is barred by limitation and the debt is thereby lost to the estate. The executor is liable to make good the amount.

### PART X.

## PART X.

## Succession Certificates.

**370.** (1) A succession certificate (hereinafter in this Part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by section 212 or section 213 to be established by letters of administration or probate:

Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under this Act.

(2) For the purposes of this Part, "security" means—

- (a) any promissory note, debenture, stock or other security of the Government of India or of a Local Government;
- (b) any bond, debenture, or annuity charged by Act of Parliament on the revenues of India;
- (c) any stock or debenture of, or share in, a company or other incorporated institution;
- (d) any debenture or other security for money issued by, or on behalf of, a local authority;
- (e) 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 Part.

**371.** The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part.

**372.** (1) Application for such a certificate shall be made to the District Judge by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure, 1908, for the signing and verification of

of

of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:—

- (a) the time of the death of the deceased;
- (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Judge to whom the application is made, then the property of the deceased within those limits;
- (c) the family or other near relatives of the deceased and their respective residences;
- (d) the right in which the petitioner claims;
- (e) the absence of any impediment under section 370 or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and
- (f) 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, or does not believe to be true, that person shall be deemed to have committed an offence under section 198 of the Indian Penal Code.

**373.** (1) If the District Judge is satisfied that there is ground for entertaining the application, he shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

*Procedure on application.*

- (a) to be served on any person to whom, in the opinion of the Judge, special notice of the application should be given, and
- (b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Judge, 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 practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Judge decides the right thereto to belong to the applicant, the Judge shall make an order for the grant of the certificate to him.

(3) If the Judge cannot decide the right to the certificate without determining questions of law or fact which seem

to

to be too intricate and difficult for determination in a summary proceeding, he may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate, and it appears to the Judge that more than one of such applicants are interested in the estate of the deceased, the Judge may, in deciding to whom the certificate is to be granted, have regard to the extent of interest and the fitness in other respects of the applicants.

Contents of certificate.

374. When the District Judge grants a certificate, he 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—

- (a) to receive interest or dividends on, or
- (b) to negotiate or transfer, or
- (c) both to receive interest or dividends on, and to negotiate or transfer,

the securities or any of them.

Requirement of security from grantee of certificate.

375. (1) The District Judge shall in any case in which he proposes to proceed under sub-section (3) or sub-section (4) of section 373, and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom he proposes to make the grant shall give to the Judge a bond with one or more surety or sureties, or other sufficient security, 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 Judge may, on application made by petition and on cause shown to his satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as he thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon 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 interested, such amount as may be recoverable thereunder.

Extension of certificate.

376. (1) A District Judge may, on the application of the holder of a certificate under this Part, 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

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 or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in section 375 may be required, in the same manner as upon the original grant of a certificate.

**377.** Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in Schedule VIII. Forms of certificate and extended certificate.

**378.** Where a District Judge 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, or to negotiate or transfer, the security, the Judge may, on application made by petition and on cause shown to his satisfaction, amend the certificate by conferring any of the powers mentioned in section 374 or by substituting any one for any other of those powers. Amendment of certificate in respect of powers as to securities.

**379.** (1) Every application for a certificate or for the extension of a certificate shall be accompanied by a deposit of a sum equal to the fee payable under the Court-fees Act, 1870, in respect of the certificate or extension applied for. Mode of collecting Court-fees on certificates.

1870.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Judge, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

**380.** A certificate under this Part shall have effect throughout the whole of British India. Local extent of certificate.

**381.** Subject to the provisions of this Part, the certificate of the District Judge shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 370, or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such

such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate granted or extended by British representative in Foreign State.

**382.** Where a certificate in the form, as nearly as circumstances admit, of Schedule VIII 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 Part, have the same effect in British India as a certificate granted or extended under this Part. VII of 1901

Revocation of certificate.

**383.** A certificate granted under this Part may be revoked for any of the following causes, namely:—

- (a) that the proceedings to obtain the certificate were defective in substance;
- (b) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;
- (c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;
- (d) that the certificate has become useless and inoperative through circumstances;
- (e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

**384.** (1) Subject to the other provisions of this Part, an appeal shall lie to the High Court from an order of a District Judge granting, refusing or revoking a certificate under this Part, 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 Judge, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure, 1908.

(3) Subject



(3) Subject to the provisions of sub-section (1) and to the provisions as to reference to and revision by the High Court and as to review of judgment of the Code of Civil Procedure, 1908, as applied by section 141 of that Code, an order of a District Judge under this Part shall be final.

385. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Effect on certificate of previous certificate, probate or letters of administration.

386. Where a certificate under this Part has been superseded or is invalid by reason of the certificate having been revoked under section 383, or by reason of the grant of a certificate to a person named in an appellate order under section 384, or by reason of a certificate having been previously granted; or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate.

Validation of certain payments made in good faith to holder of invalid certificate.

387. No decision under this Part upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Part shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

Effect of decisions under this Act, and liability of holder of certificate thereunder.

388. (1) The Local Government may, by notification in the local official Gazette, invest any Court inferior in grade to a District Judge with power to exercise the functions of a District Judge under this Part.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Judge in the exercise of all the powers conferred by this Part upon the District Judge, and the provisions of this Part relating to the District Judge shall apply to such an inferior Court as if it were a District Judge.

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 384 shall lie to the District Judge, and not to the High Court, and that

that the District Judge may, if he thinks fit, by his order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Judge.

(3) An order of a District Judge on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions as to reference to and revision by the High Court and as to review of judgment of the Code of Civil Procedure, 1908, as applied by section 141 of that Code, be final.

(4) The District Judge may withdraw any proceedings under this Part from an inferior Court, and may either himself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Judge and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Judge shall, for the purposes of this section, be deemed to be a Court inferior in grade to a District Judge.

Surrender of superseded and invalid certificates.

**389.** (1) When a certificate under this Part has been superseded or is invalid from any of the causes mentioned in section 386, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

Provisions with respect to certificates under Bombay Regulation VIII of 1827.

**390.** Notwithstanding anything in Bombay Regulation No. VIII of 1827, the provisions of section 370, sub-section (2), section 372, sub-section (1), clause (f), and sections 374, 375, 376, 377, 378, 379, 381, 383, 384, 387, 388 and 389 with respect to certificates under this Part and applications therefor, and of section 317 with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the 1st day of May, 1889, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

**PART XI.**

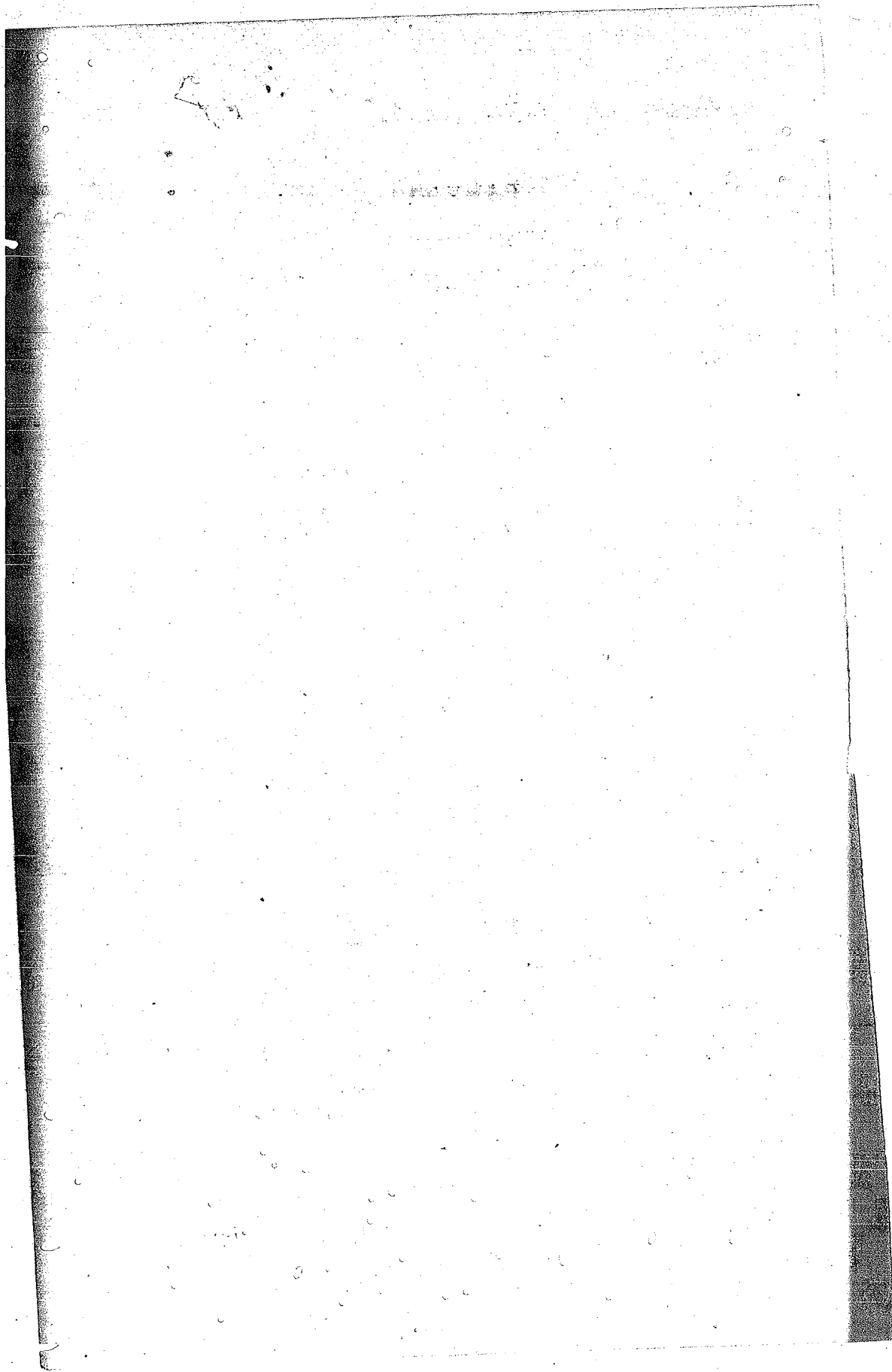
**PART XI.**

**Miscellaneous.**

**391.** Nothing in Part VIII, Part IX or Part X shall— Saving.

- (i) validate any testamentary disposition which would otherwise have been invalid;
- (ii) invalidate any such disposition which would otherwise have been valid;
- (iii) deprive any person of any right of maintenance to which he would otherwise have been entitled; or
- (iv) affect the Administrator General's Act, 1913.

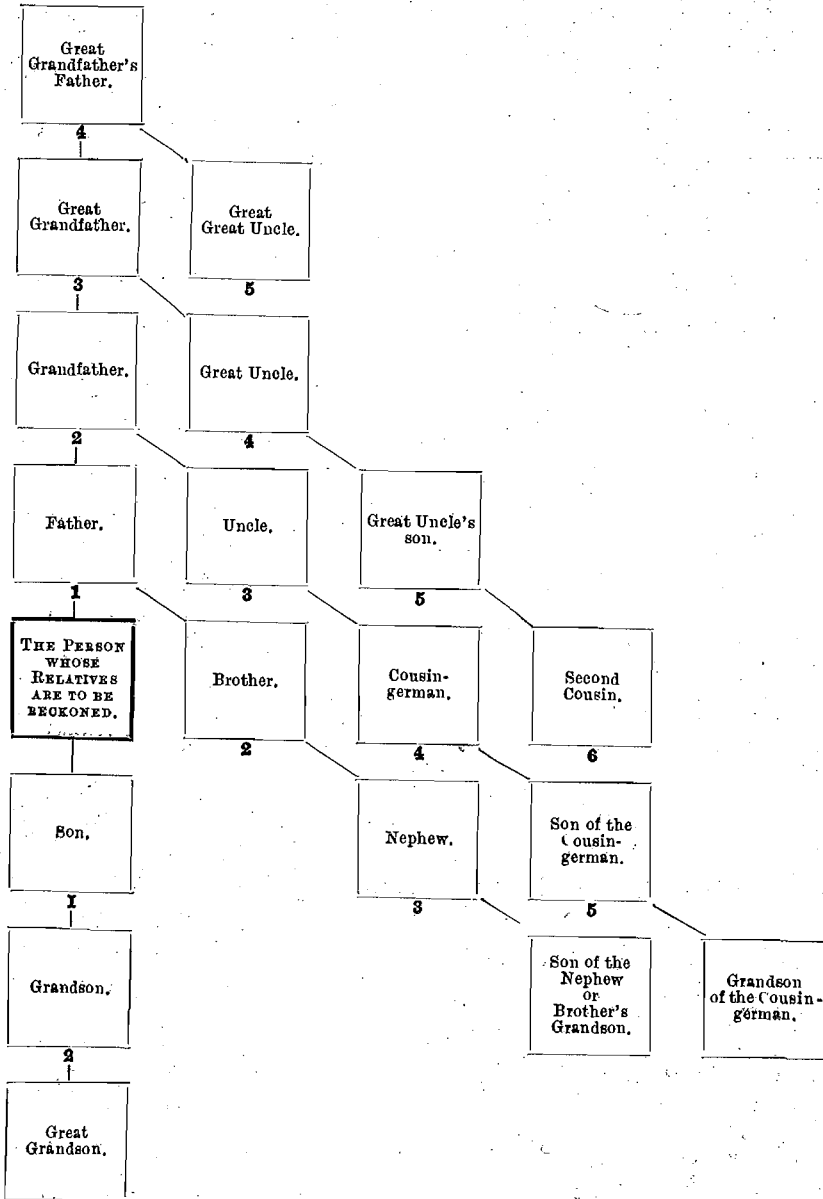
**392.** The enactments mentioned in Schedule IX are here- Repeals.  
by repealed to the extent specified in the third column thereof.



**SCHEDULE I.**

(See section 28.)

TABLE OF CONSANGUINITY.



**SCHEDULE II.**

**SCHEDULE II.**

**PART I.**

*(See section 55.)*

- (1) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the intestate.
- (2) Grandfather and grandmother.
- (3) Grandfather's sons and daughters, and the lineal descendants of such of them as have predeceased the intestate.
- (4) Great-grandfather and great-grandmother.
- (5) Great-grandfather's sons and daughters and the lineal descendants of such of them as have predeceased the intestate.

---

**PART II.**

*(See section 56.)*

- (1) Father and mother.
- (2) Brothers and sisters and the lineal descendants of such of them as have predeceased the intestate.
- (3) Paternal grandfather and paternal grandmother.
- (4) Children of the paternal grandfather, and the lineal descendants of such of them as have predeceased the intestate.
- (5) Paternal grandfather's father and mother.
- (6) Paternal grandfather's father's children and the lineal descendants of such of them as have predeceased the intestate.
- (7) Brothers and sisters by the mother's side and the lineal descendants of such of them as have predeceased the intestate.
- (8) Maternal grandfather and maternal grandmother.
- (9) Children of the maternal grandfather, and the lineal descendants of such of them as have predeceased the intestate.
- (10) Son's widow, if she has not re-married at or before the death of the intestate.
- (11) Brother's widow, if she has not re-married at or before the death of the intestate.
- (12) Paternal grandfather's son's widow, if she has not re-married at or before the death of the intestate.
- (13) Maternal

(13) Maternal grandfather's son's widow, if she has not re-married at or before the death of the intestate.

(14) Widowers of the intestate's deceased daughters if they have not re-married at or before the death of the intestate.

(15) Maternal grandfather's father and mother.

(16) Children of the maternal grandfather's father, and the lineal descendants of such of them as have predeceased the intestate.

(17) Paternal grandmother's father and mother.

(18) Children of the paternal grandmother's father, and the lineal descendants of such of them as have predeceased the intestate.

### SCHEDULE III.

(See section 57.)

#### PROVISIONS OF PART VI APPLICABLE TO CERTAIN WILLS AND CODICILS DESCRIBED IN SECTION 57.

Sections 59, 61, 62, 63, 64, 68, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 95, 96, 98, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, and 190.

#### *Restrictions and modifications in application of foregoing sections.*

1. Nothing therein contained shall authorise a testator to bequeath property which he could not have alienated *inter vivos*, or to deprive any persons of any right of maintenance of which, but for the application of these sections, he could not deprive them by will.

2. Nothing therein contained shall authorise any Hindu, Buddhist, Sikh or Jaina, to create in property any interest which he could not have created before the first day of September, 1870.

3. Nothing

3. Nothing therein contained shall affect any law of adoption or intestate succession.

4. In applying section 70 the words "than by marriage or" shall be omitted.

5. In applying any of the following sections, namely, sections seventy-five, seventy-six, one hundred and five, one hundred and nine, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, and one hundred and sixteen to such wills and codicils the words "son," "sons," "child," and "children" shall be deemed to include an adopted child; and the word "grand-children" shall be deemed to include the children, whether adopted or natural-born, of a child whether adopted or natural-born; and the expression "daughter-in-law" shall be deemed to include the wife of an adopted son.

**SCHEDULE IV.**

[See section 274 (2).]

FORM OF CERTIFICATE.

I, A. B., Registrar (*or* as the case may be) of the High Court of Judicature at \_\_\_\_\_ (*or* as the case may be) hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, the High Court of Judicature at \_\_\_\_\_ (*or* as the case may be) granted probate of the will (*or* letters of administration of the estate) of C. D., late of \_\_\_\_\_, deceased, to E. F. of \_\_\_\_\_ and G. H. of \_\_\_\_\_, and that such probate (*or* letters) has (*or* have) effect over all the property of the deceased throughout the whole of British India.

**SCHEDULE V.**

[See section 284 (4).]

FORM OF CAVEAT.

Let nothing be done in the matter of the estate of A. B., late of \_\_\_\_\_, deceased, who died on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_, without notice to C. D. of \_\_\_\_\_

**SCHEDULE VI.**



**SCHEDULE VI.**

(See section 289.)

## FORM OF PROBATE.

I, \_\_\_\_\_, Judge of the District of \_\_\_\_\_ [or Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)], hereby make known that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, the last will of \_\_\_\_\_, late of \_\_\_\_\_, a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will was granted to \_\_\_\_\_, the executor in the said will named, he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.

**SCHEDULE VII.**

(See section 290.)

## FORM OF LETTERS OF ADMINISTRATION.

I, \_\_\_\_\_, Judge of the District of \_\_\_\_\_ [or Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)], hereby make known that on the \_\_\_\_\_ day of \_\_\_\_\_ letters of administration (with or without the will annexed, as the case may be), of the property and credits of \_\_\_\_\_, late of \_\_\_\_\_, deceased, were granted to \_\_\_\_\_, the father (*or as the case may be*) of the deceased, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within

one

one year from the same date, or within such further time as the Court may, from time to time, appoint.

**SCHEDULE VIII.**

(See section 377.)

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

In the Court of

To A. B.

Whereas you applied on the \_\_\_\_\_ day of \_\_\_\_\_ for a certificate under Part X of the Indian Succession Act, 1925, in respect of the following debts and securities, namely:—

*Debts.*

Serial number	Number 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

*Securities.*

Serial number	DESCRIPTION			Market-value of security on date of application for certificate
	Distinguishing 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] [to transfer] [those securities].

Dated this \_\_\_\_\_ day of \_\_\_\_\_

District Judge.  
In

of 1925.] *Indian Succession.*

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 of security on date of application for extension
	Distinguishing 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*] [*to transfer*] [*those securities*].

Dated this \_\_\_\_\_ day of \_\_\_\_\_

*District Judge.*  
**SCHEDULE IX.**

*Indian Succession.* [ACT XXXIX OF 1925.]

**SCHEDULE IX.**

(See section 392.)

**ENACTMENTS REPEALED.**

Number and Year	Short title	Extent of repeal
XIX of 1841	The Succession (Property Protection) Act, 1841	So much as has not already been repealed.
X of 1865	The Indian Succession Act, 1865	So much as has not already been repealed.
XXI of 1865	The Parsi Intestate Succession Act, 1865	The whole Act.
XXI of 1870	The Hindu Wills Act, 1870	So much as has not already been repealed.
III of 1874	The Married Woman's Property Act, 1874	The last paragraph of section 2.
V of 1881	The Probate and Administration Act, 1881	So much as has not already been repealed.
VI of 1881	The District Delegates Act, 1881	The whole Act.
VI of 1889	The Probate and Administration Act, 1889	So much as has not already been repealed.
VII of 1889	The Succession Certificate Act, 1889.	So much as is unrepealed, except section 13.
II of 1890	The Probate and Administration Act, 1890	So much as has not already been repealed.
VII of 1901	The Native Christian Administration of Estates Act, 1901.	So much as has not already been repealed.
VIII of 1903	The Probate and Administration Act, 1903.	So much as has not already been repealed.
XVIII of 1919	The Repealing and Amending Act, 1919.	So much of Schedule I as refers to Act X of 1865 or to Act V of 1881.
XXXVIII of 1920	The Devolution Act, 1920	So much of Schedule I as refers to Act X of 1865 or to Act V of 1881.