

A COLLECTION

OF

THE ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR

1900.

CALCUTTA :

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1900.

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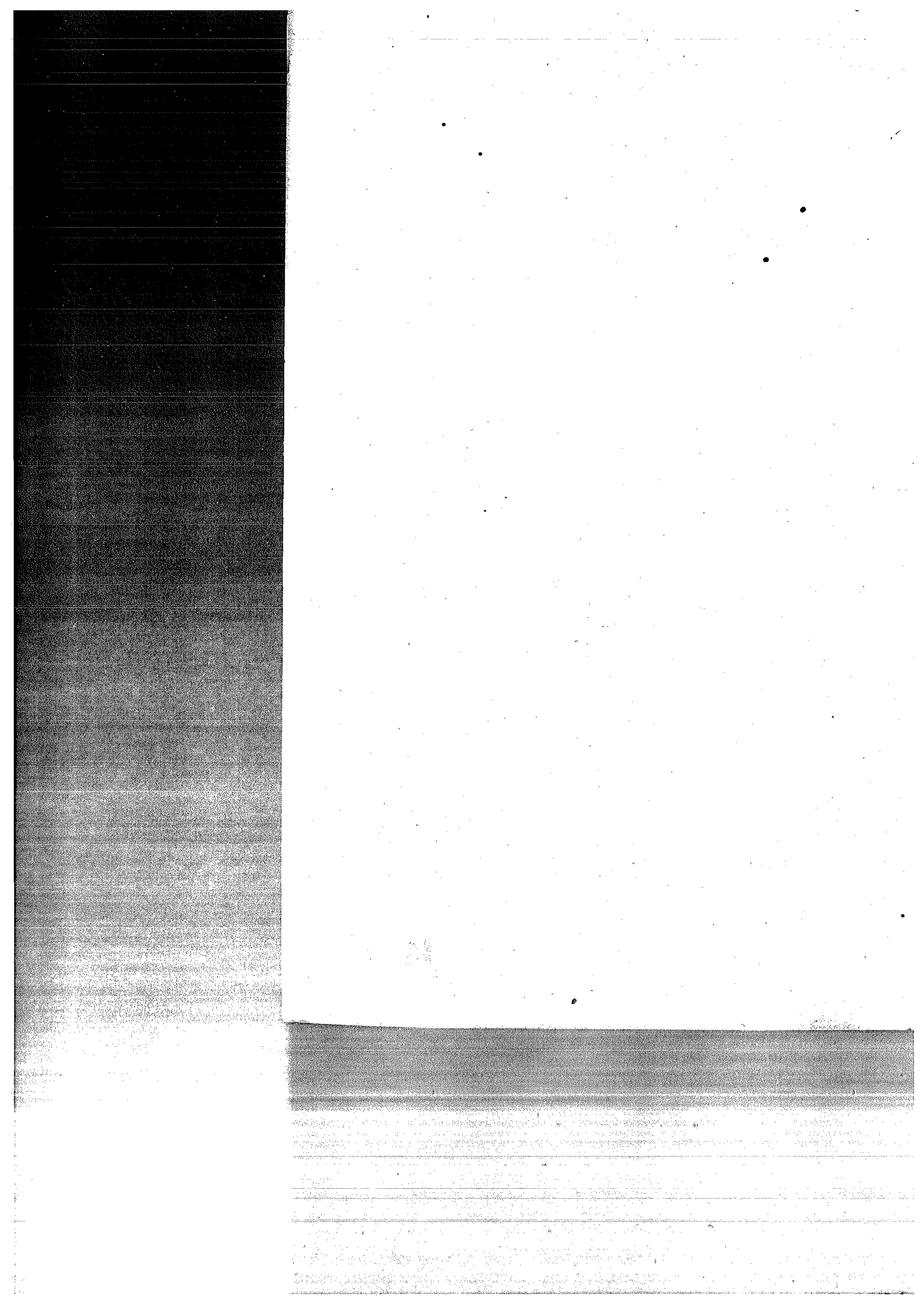
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TITLES OF ACTS

PASSED BY

THE GOVERNOR GENERAL OF INDIA IN COUNCIL IN THE YEAR 1900.

- I. An Act to amend the Indian Articles of War.
- II. " to amend the Transfer of Property Act, 1882.
- III. " to consolidate the law relating to Prisoners confined by order of a Court.
- IV. " to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom.
- V. " further to amend the Whipping Act, 1864.
- VI. " to consolidate and amend the law relating to the Courts in Lower Burma.
- VII. " to amend and provide for the further continuance of the Currency Conversion (Army Annual) Act, 1899.
- VIII. " to amend the Indian Paper Currency Act, 1882, as amended by the Indian Paper Currency Act, 1898.
- IX. " to provide for the Court-fee payable on certain Applications to the Court of the Financial Commissioner of the Punjab.
- X. " to provide for certain matters in connection with the taking of the Census.
- XI. " further to amend the Indian Limitation Act, 1877.
- XII. " to amend the Law of Evidence with respect to Bankers' Books.
- XIII. " to amend the law relating to agricultural land in the Punjab.



ACT No. I OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 19th
January, 1900.)

An Act to amend the Indian Articles of War.

V of 1869. WHEREAS it is expedient to amend the Indian Articles of War; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Articles of War Amendment Act, 1900; and

Short title and commencement.

(2) It shall come into force at once.

V of 1869. 2. For sub-article (2) of article 4 of the said Indian Articles of War, the following sub-articles shall be substituted, namely:—

Substitution of new sub-articles for sub-article (2) of article 4, Act V, 1869.

“(2) Unattested recruits who, in the opinion of their Commanding Officer, are not likely to make good soldiers, and persons attested under these Articles who are serving in a cavalry corps and who have, in the opinion of their Commanding Officer, failed to become good riders, shall be liable to discharge from the service by order of the Commanding Officer of the corps or department to which they may belong:

“Provided that, in the case of persons attested under these Articles, this liability shall cease on the completion of their third year of service.

“(3) Every person so dismissed or discharged shall forfeit all claim to pension.”

ACT No. II OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd February, 1900.)

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

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

Short title and commencement.

1. (1) This Act may be called the Transfer of Property Act, 1900; and

(2) It shall come into force at once.

Addition to section 3, Act IV, 1882.

2. In section 3 of the Transfer of Property Act, 1882, after the definition of "attached to the earth" the following shall be inserted, namely:—

" 'Actionable claim' means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent."

Amendment of section 6, Act IV, 1882.

3. In section 6 of the same Act—

(i) in clause (e) the words "for compensation for a fraud or for harm illegally caused" shall be omitted; and

(ii) in clause (h) the words "for an illegal purpose" shall be omitted and instead thereof the words "for an unlawful object or consideration within the meaning of section 23

of

IX of 1872.

of the Indian Contract Act, 1872," shall be inserted.

4. For Chapter VIII of the same Act, the following Chapter shall be substituted, namely:—

Substitution of new Chapter for Chapter VIII, Act IV, 1882.

“CHAPTER VIII.

“OF TRANSFERS OF ACTIONABLE CLAIMS.

“130. (1) The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not:

Transfer of actionable claim.

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

Exception.—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

Illustrations.

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

(ii) A

(ii) A effects a policy on his own life with an Insurance Company and assigns it to a Bank for securing the payment of an existing or future debt. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (1) of section 130 and to the provisions of section 132.

Notice to be in writing, signed.

"131. Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

Liability of transferee of actionable claim.

"132. The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

Illustrations.

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B for the debt due by B to A. In such suit B is entitled to set off the debt due by A to him, although C was unaware of it at the date of such transfer.

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

Warranty of solvency of debtor.

"133. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Mortgaged debt.

"134. Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery: secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor or other person entitled to receive the same.

"135. Every

"135. Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Assignment of rights under marine or fire policy of insurance.

"136. No Judge, legal practitioner, or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive, any share of, or interest in, any actionable claim, and no Court of Justice shall enforce, at his instance or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid.

Incapacity of officers connected with Courts of Justice.

"137. Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

Saving of negotiable instruments, etc.

Explanation.—The expression 'mercantile document of title to goods' includes a bill of lading, dock-warrant, warehouse-keeper's certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented."

5. So much of the Policies of Insurance (Marine and Fire) Assignment Act, 1866, as is unrepealed, and so much of the Indian Short Titles Act, 1897, as relates thereto, are hereby repealed.

Repeat.

of 1866.

IV of 1897.

THE PRISONERS ACT, 1900 (III OF 1900).**CONTENTS.****PART I.****PRELIMINARY.****SECTIONS.**

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44. Commissions for examination of prisoners.
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SCHEDULES.

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ACT No. III OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd February, 1900.)

An Act to consolidate the law relating to
Prisoners confined by order of a Court.

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Prisoners Act, 1900.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(3) It shall come into force at once.

Definitions.

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

(a) "Court" includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(b) "prison" includes any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail.

PART II.

GENERAL.

Officers in
charge of
prisons to

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under

(Part II.—General.—Section 4. Part III.—Prisoners in the Presidency-towns.—Sections 5-7.)

under this Act or otherwise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

detain persons duly committed to their custody

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

Officers in charge of prisons to return writs etc., after execution or discharge.

PART III.

PRISONERS IN THE PRESIDENCY-TOWNS.

5. Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police-officer within the local limits of such jurisdiction.

Warrants, etc., to be directed to Police-officers.

6. The Local Government may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this Part.

Power for Local Governments to appoint Superintendents of Presidency prisons.

Explanation.—Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as “the Superintendent”.

7. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

Delivery of persons sentenced to imprisonment or death by High Court

8. Where

(Part III.—Prisoners in the Presidency-towns.—
Sections 8-12.)

Delivery of persons sentenced to transportation or penal servitude by High Court.

8. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation or penal servitude of such person shall be deemed to commence from such delivery.

Delivery of persons committed by High Court in execution of a decree or for contempt.

9. Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

Delivery of persons sentenced by Presidency Magistrates.

10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

Delivery of persons committed for trial by High Court.

11. Every person committed by a Magistrate, Justice of the Peace, or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency

12. The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure, of any application for a declaration of insolvency, cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor in safe custody until he is re-delivered to an officer of the High Court for the purpose of being taken before

it

(Part III.—Prisoners in the Presidency-towns.—
Section 13. Part IV.—Prisoners outside the
Presidency-towns.—Sections 14-15.)

it in pursuance of its order, or until he is released in due course of law.

13. (1) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under section 5, shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction.

Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.

(2) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall, unless a Judge of the said Court otherwise directs, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

PART IV.

PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

14. In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

15. (1) Officers in charge of prisons outside the Presidency-towns may give effect to any sentence or order

Power for officers in charge of pri-

(Part IV.—Prisoners outside the Presidency-towns.—
Section 15.)

sons to give effect to sentences of certain Courts.

order or warrant for the detention of any person passed or issued—

- (a) by any Court or tribunal acting, whether within or without British India, under the general or special authority of Her Majesty, or of the Governor General in Council, or of any Local Government, or
- (b) by any Court or tribunal in the territories of any Native Prince or State in India—
 - (i) if the presiding Judge, or if the Court or tribunal consists of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to sit as such Judge by the Native Prince or State or by the Governor General in Council, and
 - (ii) if the reception, detention or imprisonment in British India or in any province of British India of persons sentenced by any such Court or tribunal has been authorized by general or special order by the Governor General in Council or the Local Government, as the case may be, or
- (c) by any other Court or tribunal in the territories of any Native Prince or State in India, with the previous sanction of the Governor General in Council or of the Local Government in the case of each such sentence, order or warrant.

(2) Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been considered on the merits and confirmed by any such officer specially authorized in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor General in Council.

(Part IV.—Prisoners outside the Presidency-towns.
—Sections 16-18.)

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

Warrant of officer of such Court be sufficient authority.

17. (1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Local Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

Procedure where office in charge of prison doubt the legality of warrant sent to him for execution under this Part.

(2) Pending a reference made under sub-section (1), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

18. (1) Where a British Court exercising, in or with respect to territory beyond the limits of British India, jurisdiction which the Governor General in Council has in such territory,—

Execution in British India of certain capital sentences not ordinarily executable there.

(a) has sentenced any person to death, and,

(b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in British India, has issued its warrant for the execution of such sentence to the officer in charge of a prison in British India,

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant

(Part V.—Persons under Sentence of Penal Servitude.—Section 19.)

warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.

V of 1898.

(2) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid shall be such as the Governor General in Council or a Local Government authorized by the Governor General in Council in this behalf may, by general or special order, direct.

(3) A Court shall be deemed to be a British Court for the purposes of this section if the presiding Judge, or if the Court consist of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to act as such Judge by any Native Prince or State in India or by the Governor General in Council :

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consists of more than one Judge, be signed by a Judge who is an officer of the British Government authorized as aforesaid.

PART V.

PERSONS UNDER SENTENCE OF PENAL SERVITUDE.

Persons under sentence of penal servitude how to be dealt with.

19. (1) Every person under sentence of penal servitude may be confined in such prison within British India as the Governor General in Council, by general order, directs, and may, while so confined, be kept to hard labour and, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons under sentence of rigorous imprisonment may, for the time being, by law be dealt with.

(2) The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

20. Every

(Part V.—Persons under Sentence of Penal Servitude.—Sections 20-24.)

20. Every enactment now in force in British India with respect to persons under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as is consistent with this Act, be construed to apply to persons under sentence of penal servitude.

Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.

21. (1) The Governor General in Council may grant to any person under sentence of penal servitude a license to be at large within British India or in such part thereof as is in such license expressed, during such portion of his term of penal servitude and upon such conditions as the Governor General in Council may think fit.

Power to grant license to person sentenced to penal servitude.

(2) The Governor General in Council may revoke or alter any license granted under sub-section (1).

22. So long as any license granted under section 21, sub-section (1), continues in force and unrevoked, the licensee shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of the license.

Licensee to be allowed to go at large.

23. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that the license has been revoked, and require him to issue a warrant for the arrest of the licensee, and such Justice or Magistrate shall issue his warrant accordingly.

Apprehension of convict where license revoked.

24. A warrant issued under section 23 may be executed by any officer to whom it is directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued

Execution of warrant.

OF

B

(Part V.—Persons under Sentence of Penal Servitude.—Sections 25-27.)

or subsequently endorsed by the Justice of the Peace or Magistrate or other authority having jurisdiction in the place where it is executed.

Licensee when arrested to be brought up for recommitment.

25. (1) When the licensee, for whose arrest a warrant has been issued under section 23, is arrested thereunder, he shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom the warrant was issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the licensee has been arrested.

(2) Such Justice or Magistrate as aforesaid shall thereupon make out a warrant under his hand and seal for the recommitment of the licensee to the prison from which he was released under the license.

Recommitment.

26. When a warrant has been issued under section 25, sub-section (2), the licensee shall be recommitment accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

Penalty for breach of condition of the license.

27. If a license is granted under section 21 upon any condition specified therein, and the licensee—

- (a) violates any condition so specified, or
- (b) goes beyond the limits so specified, or
- (c) knowing of the revocation of the license neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid arrest,

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

PART VI

PART VI.

REMOVAL OF PRISONERS.

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

V of 1898.

29. Where any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1898, the Local Government or (subject to its orders and under its control) the Inspector General of Prisons may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the prison in which he is confined to any other prison within the Province.

Removal of prisoners from one prison to another in the same Province.

30. (1) Where it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Local Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

Lunatic prisoners how to be dealt with.

(2) Where

B 2

(Part VI.—Removal of Prisoners.—Section 31.)

(2) Where it appears to the Local Government that the prisoner has become of sound mind, the Local Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the Province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 9 of the Lunatic Asylums Act, 1858, shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

XXXVI of
1858.

(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Governor General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

Removal of
prisoners
from terri-
tories under
one Local
Government
to territories
under
another.

31. When any person is or has been sentenced to imprisonment or transportation by any Court, or, in default of giving security for maintaining good behaviour, has been committed to or is detained in prison under section 123 of the Code of Criminal Procedure, 1898, the Governor General in Council may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may

V of 1898.

(Part VII.—Persons under Sentence of Transportation.—Section 32. Part VIII.—Discharge of Prisoners.—Section 33. Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Section 34.)

may be, from the prison in which he is confined to any other prison in British India.

PART VII.

PERSONS UNDER SENTENCE OF TRANSPORTATION.

32. The Governor General in Council may appoint places within British India to which persons under sentence of transportation shall be sent; and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

Appointment of places for confinement of persons under sentence of transportation and removal thereto.

PART VIII.

DISCHARGE OF PRISONERS.

24 & 25
Vict., c. 104.

33. Any Court established under the Indian High Courts Act, 1861, may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

Release, on recognizance, by order of High Court, of prisoner recommended for pardon.

PART IX.

PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE.

Attendance of Prisoners in Court.

34. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring

References in this Part to prisons, etc., to be

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Sections 35-37.)

construed as referring also to Reformatory Schools. Power for Civil Courts to require appearance of prisoner to give evidence.

referring also to Reformatory Schools or to detention therein.

35. Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

District Judge in certain cases to countersign orders made under section 35.

36. (1) Where an order under section 35 is made in any civil matter pending—

- (a) in a Court subordinate to the District Judge, or
- (b) in a Court of Small Causes outside a Presidency-town,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

- (i) the District Judge to which the Court is subordinate, or
- (ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(2) Every order submitted to the District Judge under sub-section (1) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

Power for certain Criminal Courts to require

37. Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Sections 38-39.)

limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison :

attendance of prisoner to give evidence or answer to charge.

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the District Magistrate to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

38. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the District or Subdivisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Order to be transmitted through Magistrate of the district or subdivision in which person is confined.

39. (1) Where a person is confined in a prison within a Presidency-town, or in a prison more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required, shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the High Court, and the High Court

Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required

may,

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Sections 40-42.)

may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(2) The High Court making an order under subsection (1) shall send it to the District or Subdivisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, or, in the case of a person confined in a prison within a Presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Persons confined beyond limits of appellate jurisdiction of High Court.

40. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Local Government of the territories within which the prison is situate, and the Local Government may, if it thinks fit, direct that the person be so removed, subject to such rules regulating the escort of prisoners as the Governor General in Council may prescribe.

Prisoner to be brought up.

41. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding officer of the Court authorizes him to be taken back to the prison in which he was confined.

Power to Government to exempt.

42. The Governor General in Council or the Local Government may, by notification in the Gazette of India

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Section 43.)

India or the local official Gazette, as the case may be, direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

certain prisoners from operation of this Part.

43. In any of the following cases, that is to say,—

- (a) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the District or Subdivisional Magistrate within the local limits of whose jurisdiction the prison is situate, and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or
- (b) where the person named in any such order is under committal for trial; or
- (c) where the person named in any such order is under a remand pending trial or pending a preliminary investigation; or
- (d) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined;

Officer in charge of prison when to abstain from carrying out orders.

the officer in charge of the prison shall abstain from carrying out the order, and shall send to the Court from which the order has been issued, a statement of the reason for so abstaining:

Provided

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Section 44.)

Provided that such officer as aforesaid shall not so abstain where—

- (i) the order has been made under section 37; and
- (ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed; and
- (iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

Commissions for Examination of Prisoners.

Commissions
for examina-
tion of pri-
soners.

44. In any of the following cases, that is to say,—

- (a) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in any matter pending before it; or
- (b) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter; or
- (c) where the District Judge declines, under section 36, to countersign an order for removal;

the

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Sections 45-48.)

the Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure, for the examination of the person in the prison in which he is confined.

45. Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure, for the examination of the person in the prison in which he is confined.

Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.

46. Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

Commission how to be directed.

Service of Process on Prisoners.

47. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

Process how served on prisoners.

48. (1) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

Process served to be transmitted at prisoner's request.

(2) Such

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Sections 49-50.)

(2) Such certificate as aforesaid shall be *prima facie* evidence of the service of the process, and, if the person to whom the process is directed, requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

Miscellaneous.

Application
of Part in
certain cases.

49. (1) For the purposes of this Part, the Courts of Small Causes established in the Presidency-towns and the Courts of Presidency Magistrates shall be deemed to be subordinate to the High Court of Judicature at Fort William, Madras or Bombay, as the case may be.

(2) For the purposes of this Part, every prison in Lower Burma shall be deemed to be within the local limits of the appellate jurisdiction of the Judicial Commissioner, and the Recorder of Rangoon may issue orders under section 35 or section 37, and may issue a commission under sections 44 to 46 for the examination of any person confined in any prison in Lower Burma.

(3) To obtain the removal of a person confined in a prison outside Lower Burma for the purpose of giving evidence in any criminal matter in any Court within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, the Recorder shall have the power conferred on a Judge of a High Court by section 40, and the other provisions of that section shall, as far as they can be made applicable, apply.

Deposit of
costs.

50. No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court :

Provided

(Part IX.—Provisions for requiring the Attendance of Prisoners and obtaining their Evidence.—Sections 51-53.)

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the Government from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the Code of

XIV of 1882. Civil Procedure.

51. (1) The Local Government, and in cases arising under section 40, the Governor General in Council, may make rules—

Power to make rules under this Part.

- (a) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance ;
- (b) for regulating the amount to be allowed for the costs and charges of such escort ; and
- (c) for the guidance of officers in all other matters connected with the enforcement of this Part.

(2) All rules made under sub-section (1) shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall, from the date of such publication, have the same force as if enacted by this Act.

52. The Local Government may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.

Power to declare who shall be deemed officer in charge of prison.

53. The enactments mentioned in the third schedule are hereby repealed to the extent specified in the last column thereof.

Repeals.

THE

(The First Schedule. The Second Schedule.)

THE FIRST SCHEDULE.

(See sections 35 and 37.)

Court of
To the officer in charge of the (state name of
prison).

You are hereby required to produce , now a prisoner
in , under safe and sure conduct before the
Court of at on the day of
next by of the clock in the forenoon of
the same day, there to give evidence in a matter now pending before the
said Court, and after the said has then and
there given his evidence before the said Court or the said Court has dis-
pensed with his further attendance, cause him to be conveyed under safe
and sure conduct back to the prison.

The day of

A. B.

(Countersigned) C. D.

THE SECOND SCHEDULE.

(See section 37.)

Court of
To the officer in charge of the (state name of
prison).

You are hereby required to produce , now a prisoner
in , under safe and sure conduct before the
Court of at on the day of
next by of the clock in the forenoon of
the same day, there to answer a charge now pending before the said Court,
and after such charge has been disposed of or the said Court has dispensed
with his further attendance, cause him to be conveyed under safe and sure
conduct back to the said prison.

The day of

A. B.

(Countersigned) C. D.

THE

(The Third Schedule.)

THE THIRD SCHEDULE.

(See section 53.)

Year.	No.	Title.	Extent of repeal.
1869	XV	The Prisoners' Testimony Act, 1869.	The whole Act.
1871	V	The Prisoners Act, 1871 .	The whole Act, except section 15.
1882	IX	The Prisoners Act Amendment Act, 1882.	The whole Act.
1886	X	The Indian Criminal Law Amendment Act, 1886.	Section 25.
1889	XI	The Lower Burma Courts Act, 1889.	Section 98.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act V of 1871.
1893	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893.	The whole Act.
1894	VII	The Prisoners Act (1871) Amendment Act, 1894.	The whole Act.
1897	VIII	The Reformatory Schools Act, 1897.	Section 30.

ACT NO. IV OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 16th February, 1900.)

An Act to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom.

WHEREAS it is expedient to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Indian Companies (Branch Registers) Act, 1900;
- (2) It extends to the whole of British India; and
- (3) It shall come into force at once.

Definitions.

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

(a) the expression "Company" means a Company registered under the Indian Companies Act, 1882, having its capital divided into shares; and

(b) the expression "shares" includes stock.

Power to keep branch registers in the United Kingdom.

3. (1) Any Company may, if authorized so to do by its regulations as originally framed or as altered by special resolution, cause to be kept in the United Kingdom a branch register or registers of members.

(2) The Company shall give to the Registrar of Joint-Stock Companies notice of the situation of the office where any such branch register (hereinafter called a "British register") is kept, and any change therein, and of the discontinuance of any such office

in

in the event of the same being discontinued, and the Registrar shall record such notice.

VI of 1882.

(3) A British register shall, as regards the particulars entered therein, be deemed to be a part of the Company's register of members kept under the Indian Companies Act, 1882, and shall be *prima facie* evidence of all particulars entered therein. Every such branch register shall be kept in the manner provided by section 47 of the said Act.

VI of 1882.

(4) The Company shall transmit to its registered office in India a copy of every entry in its British register or registers as soon as may be after such entry is made, and shall cause to be kept at such office, duly entered up from time to time, a duplicate or duplicates of its British register or registers. The provisions of section 55 and section 60 of the Indian Companies Act, 1882, shall apply to every such duplicate, and every such duplicate shall, for the purposes of the said Act, be deemed to be part of the register of members of the Company.

(5) Subject to the provisions of this Act with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the Indian register, and no transaction with respect to any shares registered in a British register shall, during the continuance of the registration of such shares in such British register, be registered in any other register.

(6) The Company may discontinue any British register, and thereupon all entries in that register shall be transferred to some other British register kept by the Company in the United Kingdom or to the register of members kept at the registered office of the Company in India.

4. The Governor General in Council may, by notification in the Gazette of India, make rules and prescribe forms for the purpose of carrying into effect the provisions of this Act. Power to make rules and prescribe forms.

VI of 1882.

5. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Indian Companies Act, 1882. Construction with Act VI, 1882.

ACT NO. V OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 16th February, 1900.)

An Act further to amend the Whipping Act, 1864.

WHEREAS it is expedient further to amend the Whipping Act, 1864; It is hereby enacted as V of 1864. follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Whipping Act, 1900;

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas; and

(3) It shall come into force at once.

Addition of new section after section 4, Act VI, 1864.

2. After section 4 of the Whipping Act, 1864, as VI of 1864 amended by the Indian Criminal Law Amendment Act, 1895, the following shall be added, namely:— III of 1895

Additional punishment of whipping for rape in certain cases.

“4A. Whenever any Local Government has, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declared the provisions of this section to be in force in any local area within its province, any person in that local area, who, being a member of an assembly of two or more persons, the common object of which assembly is to commit rape as defined in section 375 of the Indian Penal Code, abets, commits or attempts to commit such offence, may be punished with XLV of 1860. whipping in addition to any other punishment to which, for such abetment, offence or attempt, he may be liable under the said Code.”

Substitution of new sec-

3. For section 5 of the Whipping Act, 1864, as VI of 1864 amended by section 6 of the Indian Criminal Law Amendment

III of 1895. Amendment Act, 1895, the following shall be substituted, namely :—

tion for section 5, Act VI, 1864.

“5. Any juvenile offender who abets, commits or attempts to commit—

Juvenile offenders when punishable with whipping.

XLV of 1860.

(a) any offence which is punishable under the Indian Penal Code otherwise than with death, or

(b) any offence which is punishable under any other law with imprisonment,

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable :

Provided that the Governor General in Council may, by notification in the Gazette of India, direct that the punishment of whipping shall not be inflicted in respect of such offences falling under clause (b) as he may think fit to specify in this behalf.

Explanation.—In this section the expression ‘juvenile offender’ means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.”

4. The words “under the provisions of the Indian Penal Code” in the preamble to the Whipping Act, 1864, the words “under the provisions of the said Code” in section 1 of the same Act, and section 6 of the Indian Criminal Law Amendment Act, 1895, are hereby repealed.

VI of 1864.

III of 1895.

THE LOWER BURMA COURTS ACT, 1900
(VI OF 1900).

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ACT NO. VI OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March,
1900.)

An Act to consolidate and amend the law relating to the Courts in Lower Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in Lower Burma;

And whereas the Secretary of State for India has given his previous sanction to the passing of this Act, as required by section 46 of the Government of India Act, 1833, read with section 3 of the Government of India Act, 1858;

3 & 4 Will. 4,
c. 85.
21 & 22
Vict., c. 106.

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Lower Burma Courts Act, 1900.

Short title,
extent and
commence-
ment.

(2) Save in so far as it applies expressly or by necessary implication to other parts of British India, this Act extends to Lower Burma only.

(3) This Act 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) "Burma" includes all the territories for the time being administered by the Lieutenant-Governor of Burma:

(b) "land-suit" means a suit relating to immovable property or to any right or interest in immovable property:

(c) "Lower

(Chapter I.—Preliminary.—Section 3. Chapter II.—The Chief Court.—Sections 4-5.)

- (c) "Lower Burma" means the territories for the time being included in Lower Burma :
- (d) "Rangoon Town" means the local limits of the original civil jurisdiction of the Recorder of Rangoon immediately before the commencement of this Act unless and until the Local Government, with the previous sanction of the Governor General in Council, shall otherwise direct :
- (e) "Shan States" means the territories for the time being included in the Shan States :
- (f) "small cause" means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 :
- (g) "unclassed suit" means a suit which is neither a land-suit nor a small cause : and
- (h) "value", used with reference to a suit or appeal, means the amount or value of the subject-matter of the suit or appeal.

IX of 1887

Saving of Regulations in force in Hill District of Arakan.

3. Save as expressly provided by this Act, nothing herein shall be construed to affect any Regulation in force at the commencement of this Act in the Hill District of Arakan.

CHAPTER II.

THE CHIEF COURT.

Establishment of Chief Court.

4. On and from the commencement of this Act there shall be established for Lower Burma a Chief Court, hereinafter referred to as "the Chief Court".

Constitution of Chief Court.

5. The Chief Court shall consist of four or more Judges, who shall be appointed by the Governor General

(Chapter II.—The Chief Court.—Sections 6-8.)

General in Council and shall hold office during his pleasure, and of whom two shall ordinarily be barristers of not less than five years' standing.

6. The Governor General in Council may, in his discretion, from time to time, appoint one of the Judges of the Chief Court to be the Chief Judge, and may, during any vacancy of the office of Chief Judge, and during any absence of the Chief Judge, appoint one of the other Judges of the Chief Court to perform the duties of the Chief Judge until a new Chief Judge has been appointed and has entered upon the discharge of the duties of his office, or until the Chief Judge has returned from such absence, as the case may be.

Appointment
of Chief
Judge.

7. (1) The Chief Judge (if any), whether permanent or officiating, shall have rank and precedence before the other Judges of the Chief Court.

Rank and
precedence of
Chief Judge
and Judges
of Chief
Court.

(2) Save as aforesaid, the Judges shall have rank and precedence according to the seniority of their appointments as such Judges:

Provided that a Judge permanently appointed shall be deemed to be senior to, and shall have rank and precedence before, an officiating Judge.

(3) In the construction of this Act the expression "the Senior Judge" shall mean the Judge for the time being entitled to the first place in rank and precedence.

8. (1) The Chief Court shall be the highest Civil Court of appeal, and the highest Court of criminal appeal and revision in and for Lower Burma, and shall—

Civil and
criminal
jurisdiction
of Chief
Court.

(a) be the High Court for the whole of Burma (inclusive of the Shan States) in reference to proceedings against European British subjects and persons jointly charged with European British subjects;

(b) have power, as a Court of original jurisdiction, to try European British subjects and

(Chapter II.—The Chief Court.—Section 9.)

and persons charged jointly with European British subjects, committed to it for trial by any Magistrate and Justice of the Peace exercising jurisdiction in any part of Burma (inclusive of the Shan States);

(c) be the principal Civil and Criminal Court of original jurisdiction for the Rangoon Town; and

(d) have within the Rangoon Town such powers and authorities with respect to the persons and property of insolvent debtors and with respect to their creditors as are for the time being exercisable by a Court for the Relief of Insolvent Debtors under the Indian Insolvency Act, 1848.

11 & 12 Vict.
c. 21.

(2) Orders made by the Chief Court in the exercise of its jurisdiction with respect to insolvent debtors shall have the same force and effect throughout British India as if they had been made by the High Court of Judicature at Fort William in Bengal in the exercise of its jurisdiction under the Indian Insolvency Act, 1848, and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to the persons and property of insolvents applying for relief to the Chief Court, and the procedure in the cases of such insolvents shall be, as far as may be practicable, in accordance with the procedure prescribed by the said Statute as amended by any enactment for the time being in force.

11 & 12 Vict.
c. 21.

(3) Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the Rangoon Town.

XIV of 1882

Exercise of
jurisdiction
by Judges
of Chief
Court.

9. (1) Except as otherwise provided by this Act or by any other enactment for the time being in force, and subject to any rules made under this Act, the jurisdiction of the Chief Court may be exercised by a single Judge of the Court.

(2) The

(Chapter II.—The Chief Court.—Sections 10-12.)

(2) The Chief Court may, with the sanction of the Local Government, make rules to provide, in such manner as it may think fit, for the exercise of any of its powers by a bench of two or more Judges of the Court.

10. (1) The Chief Court may make rules declaring what number of Judges, not being less than three, shall constitute a full bench of the Chief Court, and may by such rules prescribe the mode of determining which Judges shall sit as a full bench when a full bench sitting becomes necessary.

Constitution of full bench and other benches.

(2) Subject to the provisions of sub-section (1), the Senior Judge of the Chief Court may determine which Judge in each case or class of cases shall sit alone, and which Judges shall constitute any bench.

11. Any single Judge of the Chief Court and any bench of Judges thereof, not being a full bench, may in any case refer for the decision of a bench of two Judges or of a full bench any question of law or custom having the force of law, or of the construction of any document, or of the admissibility of any evidence, arising before the Judge or bench, and shall dispose of the case in accordance with the decision of the bench to which the question has been referred.

Power to refer question to full bench.

12. Where in any case any such question as is referred to in section 11 has been decided by a Judge of the Chief Court exercising the jurisdiction of the Chief Court as a Court having power to try European British subjects committed to it for trial, or as the principal Criminal Court of original jurisdiction for the Rangoon Town, and no reference has been made under the provisions of that section or of section 434 of the Code of Criminal Procedure, 1898, the Chief Court may, on its being certified by the Government Advocate that in his opinion the decision should be further considered, review the case or such part of it as may be necessary, and finally determine the question, and may thereupon alter the judgment, order

Review in certain criminal cases.

or sentence passed by the Judge, and pass such judgment, order or sentence as it thinks right.

Magistrate
in Rangoon
to commit
to Chief
Court.

13. Notwithstanding anything in the Code of Criminal Procedure, 1898, Magistrates exercising jurisdiction in the Rangoon Town when committing prisoners for trial shall commit them to the Chief Court. V of 189

Appeal from
Judge of
Chief Court
exercising
original civil
jurisdiction.

14. Except as otherwise provided by any enactment for the time being in force, an appeal from any decree made by a single Judge of the Chief Court or from any order made by a single Judge of the Chief Court when an appeal from such order is permitted by any law for the time being in force,—

- (a) in the exercise of its original jurisdiction as the principal Civil Court of original jurisdiction for the Rangoon Town, or
- (b) in the exercise of its original jurisdiction with respect to insolvent debtors and their creditors, or
- (c) in the exercise of its original jurisdiction in cases withdrawn from other Courts under section 25 of the Code of Civil Procedure, or XIV of 1
- (d) in the exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section,

shall lie to a bench of the Chief Court consisting of two other Judges of the Chief Court.

Rule of deci-
sion where
Judges
differ.

15. Except as otherwise provided by any enactment for the time being in force,—

- (a) where there is a difference of opinion among the Judges composing any bench of the Chief Court, the decision shall be in accordance with the opinion of the majority of those Judges ;

(b) if

(Chapter II.—The Chief Court.—Sections 16-17.)

(b) if there is no such majority, then,—

- (i) if the bench is a full bench, the decision shall be in accordance with the opinion of the Senior Judge of the bench;
- (ii) in other cases, the bench before which the difference has arisen shall refer it to a full bench, and shall dispose of the case in accordance with the decision of the full bench.

16. (1) The Chief Court, when sitting as a Court of Civil Judicature, shall take evidence and record judgments and orders in the manner required by the Code of Civil Procedure, unless it has, with the previous sanction of the Governor General in Council, made rules for regulating these matters.

Procedure in exercise of civil jurisdiction.

(2) If the Chief Court has so made rules for regulating these matters, the Governor General in Council may declare that any of the provisions of the Code of Civil Procedure with respect thereto shall not apply to the Chief Court.

(3) So much of section 579 of the Code of Civil Procedure as requires the decree to contain the memorandum of appeal, and to be signed and dated by the Judge or Judges who passed it, shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

17. (1) Subject to any rules and restrictions which may be prescribed by the Governor General in Council, the Senior Judge of the Chief Court may appoint Registrars and Assistant Registrars, an Official Assignee, a Receiver and such other ministerial officers as may be necessary for the administration of justice by the Chief Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or by any other enactment for the time being in force.

Ministerial officers of Chief Court.

(2) The appointment of the Registrars, Assistant Registrars, Official Assignee and Receiver shall be subject to the sanction of the Local Government.

(3) The

(Chapter II.—The Chief Court.—Sections 18-19.)

(3) The officers appointed under this section shall exercise such powers and discharge such duties as the Chief Court may direct.

(4) Any officer appointed under this section may be suspended or dismissed by the Senior Judge of the Chief Court :

Provided that a Registrar, Assistant Registrar, Official Assignee or Receiver shall not be dismissed without the previous sanction of the Local Government.

Superintendence and control of subordinate Court.

18. (1) The general superintendence and control over all other Civil Courts in Lower Burma shall be vested in, and all such Courts shall be subordinate to, the Chief Court.

(2) The Senior Judge of the Chief Court or a Judge of the Chief Court appointed by him shall from time to time visit and inspect the proceedings of the Civil Courts subordinate to the Chief Court, and shall give such directions in matters not provided for by law as may be necessary to secure the due administration of justice.

Power to Chief Court to make rules.

19. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Chief Court, with the previous sanction of the Local Government, may, by notification in the local official Gazette, make rules, consistent with this Act and any other enactment for the time being in force,—

(a) declaring what persons shall be permitted to practise as petition-writers in the Courts in Lower Burma, regulating the conduct of business of persons so practising, and determining the authority by which breaches of rules under this clause shall be tried ;

(b) providing for the translation of any papers filed in the Chief Court, and the copying or printing of any such papers or translations, and requiring from the persons at

whose

(Chapter II.—The Chief Court.—Section 19.)

whose instance or on whose behalf papers are filed, payment of the expenses thereby incurred ;

- (c) regulating the procedure in cases where any person is entitled to inspect a record of any Court in Lower Burma or to obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies ;
- (d) prescribing the travelling and other expenses to be allowed to witnesses in civil cases, and the fees to be allowed to commissioners appointed by the Courts in Lower Burma ;
- (e) determining in what cases advocates and pleaders shall be permitted to address the Courts in Lower Burma in English ;
- (f) conferring and imposing on the ministerial officers of the Chief Court and of the Courts subordinate to it such powers and duties of a non-judicial or quasi-judicial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed ;
- (g) prescribing forms to be used in the Courts subordinate to it for such proceedings, books, entries, statistics and accounts as it thinks necessary ;
- (h) providing for the visitation and inspection of the Courts subordinate to it and the supervision of the working thereof ; and
- (i) regulating all such matters as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of the Chief Court and of the Courts subordinate to it, and maintaining proper discipline among those officers.

(2) Whoever

(Chapter II.—The Chief Court.—Section 20. Chapter III.—The Subordinate Civil Courts.—Sections 21-22.)

(2) Whoever commits a breach of any rule made under sub-section (1), clause (a), shall be punishable with fine which may extend to fifty rupees.

Registers, books, accounts, returns, statement and reports.

20. The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Chief Court, and shall comply, in such form and manner as the Local Government may deem proper, with any requisitions which the Local Government may make for records of, or papers belonging to, the Chief Court or any Court subordinate to it, or for certified copies of, or extracts from, those records or papers, or for returns, statements or reports.

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Grades of Courts.

Grades of Civil Courts.

21. (1) Besides the Chief Court, the Courts of Small Causes established under the Provincial Small Cause Courts Act, 1887, and the Courts established under any other enactment for the time being in force, there shall be four grades of Civil Courts in Lower Burma, namely:—

IX of 1887.

- (a) the Divisional Court;
- (b) the District Court;
- (c) the Subdivisional Court; and
- (d) the Township Court.

(2) Every Court mentioned in the list in sub-section (1) shall be of a lower grade than the Court mentioned immediately above it, and shall be subordinate to all Courts above it in the said list.

Superintendence and control.

22. Subject to the general superintendence and control of the Chief Court, the Divisional Court shall superintend and control all other Courts in the local

local

(Chapter III.—The Subordinate Civil Courts.—
Sections 23-25.)

local area within its jurisdiction; and, subject as aforesaid and to the control of the Divisional Court, the District Court shall superintend and control all other Civil Courts in the local area within its jurisdiction.

Territorial Divisions and Establishment of Courts.

23. (1) For the purposes of this Act, the Local Government shall divide Lower Burma outside the Rangoon Town into such civil divisions, and each civil division into such civil districts, as may be approved by the Governor General in Council, and may divide each civil district into such civil subdivisions, and each civil subdivision into such civil townships, as it may think fit, or may constitute in each civil district such civil subdivisions and such civil townships as it may think fit.

Civil divisions, districts, subdivisions and townships.

(2) The Local Government may, with the previous sanction of the Governor General in Council, alter the limits or the number of the said civil divisions and districts, and, of its own authority, the limits or the number of the said civil subdivisions and townships.

24. The Local Government shall establish—

- (a) a Divisional Court for each civil division;
- (b) a District Court for each civil district;
- (c) a Subdivisional Court for each civil subdivision; and
- (d) a Township Court for each civil township.

Establishment of Courts.

Jurisdiction of Courts.

XIV of 1882.
IX of 1887.

25. Subject to the provisions of the Code of Civil Procedure, the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force,—

- (a) the Township Court shall have jurisdiction to hear and determine any suit or original proceeding

Original jurisdiction of Divisional, District, Subdivisional and Township Courts.

proceeding of a value not exceeding five hundred rupees :

(b) the Subdivisional Court shall have jurisdiction to hear and determine any suit or original proceeding of a value not exceeding three thousand rupees :

(c) the District Court shall have jurisdiction to hear and determine any suit or original proceeding without restriction as regards the value, except proceedings under the Indian Divorce Act, 1869, and shall be deemed to be the Court of a District Judge as defined by clause (15) of section 3 of the General Clauses Act, 1897 :

IV of 1869

X of 1897.

(d) the Divisional Court shall have such jurisdiction to hear and determine any suit or original proceeding as is by this section conferred upon a District Court, and shall also have jurisdiction to hear and determine any original proceeding under the Indian Divorce Act, 1869, and shall be deemed the District Court under that Act for all districts comprised in the civil division.

IV of 1869.

Power to invest certain Courts with Small Cause Court powers.

26. The Local Government may, by notification in the local official Gazette, invest any District, Subdivisional or Township Court with the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, up to such value not exceeding five hundred rupees as it may think fit, to be exercised in cases arising within the limits of the Court's jurisdiction or in any specified area within such limits, and may withdraw any jurisdiction so conferred.

IX of 1887

Enhancement of powers of Judge of Court of Small Causes of Rangoon.

27. (1) The Local Government may, by notification in the local official Gazette, direct that such suits of a civil nature as are not excepted from the cognizance of a Court of Small Causes by section 15, subsection (1),

section (1),

(Chapter III.—The Subordinate Civil Courts.—
Section 28.)

IX of 1887. section (1), of the Provincial Small Cause Courts Act, 1887, and are of value exceeding one thousand and not exceeding two thousand rupees, shall be cognizable by the Judge of the Court of Small Causes of Rangoon as if they were suits cognizable by him under the said Act, and thereupon so much of that Act as relates to—

- (a) the exclusion of the jurisdiction of any other Court in such suits,
- (b) the practice and procedure of Courts of Small Causes,
- (c) appeals from certain orders of those Courts and revision of cases decided by them, and
- (d) the finality of their decrees and orders subject to such appeal and revision as are provided by the said Act,

shall apply to such suits, and to the trial thereof, and the decrees and orders therein.

(2) The Local Government may, by notification in the local official Gazette, cancel any order made under sub-section (1), but not so as to affect any proceedings pending at the date of the order of cancellation.

XIV of 1882. IX of 1887. 28. (1) Subject to the provisions of the Code of Civil Procedure, the Provincial Small Cause Courts Act, 1887, and any other enactment for the time being in force, the Courts to which appeals are hereinafter declared to lie, shall respectively have authority to hear appeals from the decrees and orders of the Courts subordinate to them passed in the exercise of their original jurisdiction—

(a) an appeal from a decree or order of a Township Court shall lie to the District Court :

(b) an appeal from a decree or order of a Sub-divisional Court shall lie to the Divisional Court :

(c) an appeal from a decree or order of a District Court shall, where the value of the suit in such Court

is

(Chapter III.—The Subordinate Civil Courts.—
Sections 29-30.)

is five thousand rupees or upwards, lie to the Chief Court, and in any other case to the Divisional Court :

(d) an appeal from a decree or order of a Divisional Court when exercising original jurisdiction shall lie to the Chief Court :

Provided that the Local Government may, by notification in the local official Gazette, direct that appeals from original decrees and orders of any specified District or Subdivisional Court shall lie to the Chief Court, in which case an appeal from any such decree or order of any Court so specified shall, so long as such notification continues in force, lie to the Chief Court.

(2) Where an order specified in section 588, clause (29), of the Code of Civil Procedure, is made by a District Court in exercise of the jurisdiction of a Court of Small Causes, an appeal therefrom shall lie to the Chief Court.

XIV of 188

Period of limitation for appeals to the Divisional Court.

29. The period of limitation for an appeal to the Divisional Court under clause (b) or clause (c) of section 28 shall be sixty days, and, in the computation of that period and in all other respects, the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.

XV of 1877

Second appeals to the Chief Court.

30. (1) In addition to the second appeals permissible under section 584 of the Code of Civil Procedure, a second appeal shall lie to the Chief Court from an appellate decree of a Court subordinate thereto on any ground which would be a good ground of appeal if the decree had been passed in an original suit, whenever the decree of the Appellate Court varies or reverses otherwise than as to costs the decree of the Court below :

XIV of 188

Provided that no such second appeal shall lie—

(a) in the case of a small cause, unless the value of the cause exceeds five hundred rupees, or

(b) in

(Chapter III.—The Subordinate Civil Courts.—
Section 31.)

- (b) in the case of an unclassified suit, unless the value of the suit exceeds five hundred rupees or the suit is of the nature described in sub-section (1) of section 13 of the Burma Laws Act, 1898.
- XIII of 1898.
- (2) The period of limitation for an appeal to the Chief Court under this section shall be ninety days, and, in the computation of that period and in all other respects, the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.
- XV of 1877.

Administrative Control.

31. (1) The Divisional Court may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court.
- XIV of 1882.

Power of
Courts to
transfer
cases.

(2) In addition to the powers referred to in sub-section (1), a Divisional Court and a District Court may, by order in writing, direct that any case or class of cases which may be instituted in such Court, or in any Court subordinate thereto, shall be disposed of by an Additional Judge of such Court or by any other Court subordinate thereto, or by an Additional Judge of any such subordinate Court, as the case may be :

Provided that no direction under this section shall empower any Court to exercise jurisdiction beyond the pecuniary limits of its jurisdiction.

(3) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

- (4) When a case has been withdrawn or transferred under section 25 of the Code of Civil Procedure or under this section, any fees payable in such case under the Court-fees Act, 1870, or under rules made under
- XIV of 1882.
- VII of 1870.

(Chapter III.—The Subordinate Civil Courts.—
Sections 32-34.)

under this Act, shall be payable at the rates which would have been applicable in the Court from which the case has been withdrawn or transferred.

Delegation of powers of District Court with respect to administrative control.

32. The District Court may, with the previous sanction of the Local Government, delegate to any Subdivisional Court in the civil district the powers conferred on the District Court by section 31 of this Act and by section 25 of the Code of Civil Procedure, to be exercised by the Subdivisional Court in any specified portion of the district within the area of the jurisdiction of the District Court.

XIV of 1888

Judges not to try cases in which they are personally interested.

33. (1) No Judge or Additional Judge of a Court under this Act shall hear or determine any suit, appeal or other proceeding to which he is a party, or in which he is personally interested.

(2) When any such suit, appeal or other proceeding comes before any Judge of a subordinate Court, he shall forthwith transmit the record of the case to the Court empowered to transfer cases to which he is subordinate, with a report of the circumstances attending the reference, and such superior Court shall thereupon hear and determine the case or transfer it to some other Court.

(3) When any such suit, appeal or proceeding comes before an Additional Judge of a subordinate Court, he shall forthwith transmit the record of the case to the Judge of the Court, who shall hear and determine the case.

Appointment of Judges and Ministerial Officers of Subordinate Courts.

Appointment of Judges.

34. (1) The Judges of the Divisional, District, Subdivisional and Township Courts shall be appointed by the Local Government.

(2) The Local Government may, whenever it thinks it necessary or expedient so to do, appoint an Additional Judge or Judges to any Divisional, District, Subdivisional

(Chapter III.—The Subordinate Civil Courts.—
Section 35. Chapter IV.—Supplemental Provi-
sions.—Section 36.)

Subdivisional or Township Court, and any officer so appointed an Additional Judge shall exercise the jurisdiction of the Court to which he is appointed, and the powers of the Judge thereof subject to any general or special orders of the Local Government as to the class or value of suits or appeals which he or officers of his rank or grade may try, hear or determine, and subject also, in respect of the distribution of the business of the Court, to the control of the Judge thereof.

(3) An officer may be appointed an Additional Judge of one or more Courts, and an officer who is a Judge of one Court may be appointed an Additional Judge in another Court or in other Courts.

35. (1) The ministerial officers of the Divisional Court and of the District Court shall be appointed by the Judges of those Courts respectively.

Appointment
of ministerial
officers.

(2) The ministerial officers of the Subdivisional and Township Courts shall be appointed by the District Court.

(3) Every appointment made under this section shall be subject to such rules as the Local Government may, by notification in the local official Gazette, make in this behalf, and, in dealing with any matter under this section, the District Court shall act subject to the control of the Divisional Court.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

36. Every Civil Court shall be held at such place or places as the Local Government may, by notification in the local official Gazette, direct, or, in the absence of any such direction, at any place within the local limits of the jurisdiction of the Court.

Place of sit-
ting.

37. Every

(Chapter IV.—Supplemental Provisions.—Sections 37-41.)

Seal.

37. Every Civil Court shall use a seal of such form and dimensions as the Local Government may prescribe on all processes and orders issued, and on all decrees passed by it.

Vacations.

38. (1) Subject to the approval of the Local Government, the Chief Court shall prepare and publish in the local official Gazette a list of days to be observed in each year as holidays in the Chief Court and the Civil Courts subordinate thereto.

(2) A judicial act done by a Court on a day specified in a list published under sub-section (1) shall not be invalid by reason only of its having been done on that day.

Language of Courts.

39. Plaints, petitions and applications to a Court may be written, and evidence may be taken down, in such language or languages as the Local Government may direct in this behalf.

Advocates of abolished Courts.

40. (1) Every person entitled immediately before the commencement of this Act to appear, plead or act in the Court of the Recorder of Rangoon or in the Court of the Judicial Commissioner, Lower Burma, shall be entitled to be enrolled as an Advocate of the Chief Court, and to practise therein and in the Courts subordinate thereto, subject to the provisions of the Legal Practitioners Act, 1879, and to any rules applicable to Advocates made thereunder.

XVIII of 1879.

(2) Every person entitled immediately before the commencement of this Act to appear, plead or act in any Court or Courts subordinate to the Court of the Recorder of Rangoon or to the Court of the Judicial Commissioner, Lower Burma, shall be entitled to practise as a pleader in such Courts or in the corresponding Court or Courts under this Act, subject to the provisions of the Legal Practitioners Act, 1879, and to any rules applicable to pleaders made thereunder.

XVIII of 1879.

Power to Local Government to

41. The Local Government, with the previous sanction of the Governor General in Council, may, notwithstanding

(Chapter IV.—Supplemental Provisions.—Section 42. Chapter V.—Provision for pending and past Proceedings.—Section 43.)

VII of 1870. withstanding anything in the Court-fees Act, 1870, make rules as to process-serving establishment. make rules with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and rules so made may be declared by the Local Government to be in supersession of all or any rules made under sections 22 and 23 of the said Act.

42. (1) Where any Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court has been transferred. Continuance of jurisdiction of abolished Courts.

XIV of 1882. (2) Nothing in this section shall be construed to apply to cases for which provision is made by section 623 or section 649 of the Code of Civil Procedure or by any other enactment for the time being in force.

CHAPTER V.

PROVISION FOR PENDING AND PAST PROCEEDINGS.

43. (1) All proceedings instituted before the commencement of this Act in the High Court of Judicature at Fort William in Bengal, and arising out of any civil or criminal proceeding in any Court in Burma, shall be continued in that High Court as if this Act had not been passed. Pending proceedings.

(2) Every proceeding pending in any Civil Court in Lower Burma at the commencement of this Act shall be deemed to be transferred to the Court exercising the jurisdiction under this Act, which corresponds to the jurisdiction of the Court in which the proceeding was instituted, and the Court to which any such proceeding is transferred, shall proceed to try, hear

(Chapter V.—Provision for pending and past Proceedings.—Section 44.)

hear and determine the matter as if it had been instituted in such Court :

Provided that nothing herein contained shall be construed to extend the period of limitation to which any suit or appeal may be subject.

(3) Every criminal proceeding pending in the Court of the Judicial Commissioner for Lower Burma or in the Court of the Recorder of Rangoon at the commencement of this Act shall be deemed to be transferred to the Chief Court.

(4) Every insolvency proceeding pending in the Court of the Judge of the Town of Moulmein at the commencement of this Act shall be deemed to be transferred to the District Court of Amherst, and the said District Court shall in such proceedings exercise the jurisdiction which the said Judge would have had if this Act had not been passed, and an appeal shall lie from the decision of the said District Court therein to the Chief Court.

Appeals after commencement of Act against decrees and orders passed before.

44. Appeals from decrees and orders passed and not appealed against before the commencement of this Act shall lie as follows, namely :—

- (a) when the appeal would before that date have lain to the High Court of Judicature at Fort William in Bengal, or to the Special Court, the Court of the Recorder of Rangoon or the Court of the Judicial Commissioner of Lower Burma—to the Chief Court ;
- (b) when the appeal would before the commencement of this Act have lain to the Court of the Commissioner—to the Divisional Court ;
- (c) when the appeal would before the commencement of this Act have lain to the Court of the Deputy Commissioner or to the Court of an Assistant Commissioner or of an Extra Assistant Commissioner empowered

to.

(Chapter V.—Provision for pending and past Proceedings.—Section 45.)

XI of 1889.

to hear appeals under section 20 of the Lower Burma Courts Act, 1889—to the District Court :

Provided that nothing herein contained shall be construed to extend the period of limitation to which any suit or appeal may be subject.

45. (1) All decrees passed and orders made before the commencement of this Act by the High Court of Judicature at Fort William in Bengal and all sentences and orders passed in the exercise of criminal jurisdiction by the Court of the Recorder of Rangoon or by the Court of the Judicial Commissioner for Lower Burma shall be deemed, for the purposes of execution, to have been passed or made by the Chief Court.

Execution of
past decrees
and orders.

(2) All decrees passed and orders made before the commencement of this Act by a Court mentioned in the first column of the following table shall, for the purposes of execution, be deemed to have been passed or made by the Court set opposite to it in the second column of that table exercising jurisdiction over the area in which the Court in the first column had jurisdiction, and every decree which, before the commencement of this Act, shall have been sent for execution to a Court mentioned in the first column of that table shall be deemed to have been sent for execution to the corresponding Court in the second column exercising jurisdiction over the same area.

1	2
The Special Court	} The Chief Court.
The Court of the Recorder of Rangoon	
The Court of the Judicial Commissioner of Lower Burma	
The Court of the Commissioner	} The Divisional Court.
The Court of the Judge of the Town of Moulmein	
The Court of the Deputy Commissioner	} The District Court.
The Court of the Assistant Commissioner	
The Court of the Extra Assistant Commissioner	
The Court of the Myoök	} The Subdivisional Court.
	} The Township Court.

CHAPTER VI.

GENERAL.

Rules to have
effect as if
enacted by
Act.

46. All rules made under this Act shall, on publication, have effect as if enacted by this Act.

Amendment
of certain
enactments.

47. The enactments mentioned in the first schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Repeals.

48. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE.

ENACTMENTS AMENDED.

(See section 47.)

Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council.</i>			
1866	XXVII	The Indian Trustees Act, 1866.	<i>In the definition of High Court in section 2, after the word Punjab insert the words and the Chief Court of Lower Burma.</i>
"	XXVIII	The Trustees' and Mortgagees Powers Act, 1866.	<i>In the definition of High Court in section 1, after the word Punjab add the words and the Chief Court of Lower Burma.</i>
1869	IV	The Indian Divorce Act, 1869.	(1) <i>In section 3, clause (1), for the words the Special Court constituted under the Lower Burma Courts Act, 1889, substitute the words the Chief Court of Lower Burma.</i> (2) <i>In section 3, clause (2), for the words the areas for the time being within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon and of the civil jurisdiction of the Court of the Judge of the Town of Moulmein, substitute the word Burma.</i> (3) <i>In the same clause, for the words the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Moulmein respectively, substitute the words Burma—a Judge of a Divisional Court.</i>
1870	VII	The Court-fees Act, 1870.	<i>For the words and figures in the first column of No. 14 of the first schedule substitute the following :—</i> 14. <i>Application to the Chief Court of Lower Burma for the exercise of its revisional jurisdiction under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887.</i>
1877	II	The Probate and Administration Act, 1877.	<i>For clause (c) of section 1 substitute the following :—</i> (c) <i>the Chief Court of Lower Burma, and previous to its establishment the Court of the Recorder of Rangoon.</i>

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—continued.

Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council—continued.</i>			
1877	XV	The Indian Limitation Act, 1877.	In Nos. 151 and 162 of the second schedule, after the word Punjab insert the words or the Chief Court of Lower Burma.
1879	III	The Destruction of Records Act, 1879.	In section 3, after the word Bombay insert the words and the Chief Court of Lower Burma.
„	XVIII	The Legal Practitioners Act, 1879.	In section 41, subsection (4), after the word Punjab insert the words and the Chief Court of Lower Burma.
1880	V	The Burma Boundaries Act, 1880.	In section 19, for the words following the words an appeal shall lie down to the end of the section substitute the following :— —in Lower Burma to the Chief Court of Lower Burma. —in Upper Burma to the Judicial Commissioner of Upper Burma. In section 21, for the words and the Recorder of Rangoon substitute the words of Upper Burma and the Chief Court of Lower Burma.
1881	V	The Probate and Administration Act, 1881.	In section 59, for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.
1882	XIV	The Code of Civil Procedure.	In section 4, for the figures 1889 following the words the Lower Burma Courts Act, substitute the figures 1900. For clause (d) of section 6 substitute the following :— (d) of the Chief Court of Lower Burma sitting as an Insolvent Court under the Statute 11 and 12 Victoria, Chapter 21 ; In the third paragraph of section 39, after the word Punjab insert the words or of the Chief Court of Lower Burma.

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—continued.

Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council—continued.</i>			
1882	XIV —contd.	.	<p>In section 360 A, for the words or Bombay substitute the words Bombay or Rangoon.</p> <p>For clause (b) of section 538 substitute the following :—</p> <p>(b) the Chief Court of Lower Burma.</p> <p>In section 648, for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.</p>
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	<p>For sub-clause (4) of section 2 substitute the following :—</p> <p>(4) The Chief Court of Lower Burma.</p>
1898	V	The Code of Criminal Procedure, 1898.	<p>In section 4, clause (d), for the words Recorder of Rangoon substitute the words Chief or Senior Judge of the Chief Court of Lower Burma.</p> <p>In section 4, clause (j), for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.</p> <p>In section 25, for the words the Judges of the High Courts and the Recorder of Rangoon substitute the words and the Judges of the High Courts.</p> <p>In section 266, for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.</p> <p>In section 364, sub-section (1), after the word Punjab insert the words or the Chief Court of Lower Burma.</p> <p>In section 365 omit the word and after Royal Charter, and after the word Punjab insert the words and the Chief Court of Lower Burma.</p>
1899	II	The Indian Stamp Act, 1899.	<p>In section 57, between sub-clauses (d) and (e) insert—</p> <p>(1) if it arises in Burma—to the Court of Lower Burma ;</p>

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—concluded.

Year.	No.	Short title.	Amendment.
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Part I.—Acts of the Governor General in Council—concluded.

1899	IX	The Indian Arbitration Act, 1899.	For section 23 <i>substitute the following</i> :— 23. (1) This Act shall apply within the local limits of the ordinary civil jurisdiction of the Chief Court of Lower Burma in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted within those local limits. (2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a presidency-town.
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Part II.—Regulation made under the Government of India Act, 1870 (33 Vict., c. 3).

1874	VIII	The Arakan Hills Civil Justice Regulation, 1874.	In section 76, <i>for the words</i> Judicial Commissioner, <i>wherever they occur, substitute the words</i> Chief Court; <i>for the words in his Court substitute the words in the</i> Chief Court; <i>and for the words his judgment substitute its</i> judgment.
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Part III.—Acts of the Lieutenant-Governor of Burma in Council.

1898	III	The Burma Municipal Act, 1898.	In section 63, sub-section (5), <i>for the words</i> Judicial Commissioner <i>substitute the words</i> Chief Court of Lower Burma, <i>if the case has arisen in Lower Burma; or to the</i> Judicial Commissioner of Upper Burma, <i>if the case has arisen in Upper Burma.</i> In section 63, sub-section (6), <i>before the words</i> the Judicial Commissioner, <i>wherever they occur, insert the words</i> the Chief Court <i>or.</i> In section 64, sub-sections (5) and (6), <i>for the word</i> Recorder, <i>wherever it occurs, substitute the words</i> Chief Court of Lower Burma.
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(The Second Schedule.—Enactments repealed.)

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(See section 48.)

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1864	XVII	The Official Trustees Act, 1864.	Sub-section (3) of section 34.
1865	X	The Indian Succession Act, 1865.	In the definition of " High Court " in section 3, <i>the words</i> and for the purposes of sections 242, 242A, 246A and 277A, shall include the Court of the Recorder of Rangoon.
1873	X	The Indian Oaths Act, 1873.	The explanation to section 7.
1874	II	The Administrator General's Act, 1874.	Sub-section (3) of section 68.
1879	III	The Destruction of Records Act, 1879.	The second paragraph of section 2.
1882	VII	The Powers of Attorney Act, 1882.	Section 4, clause (f).
"	XIV	The Code of Civil Procedure.	In the penultimate paragraph of section 287 <i>the words</i> As regards his own Court and the Court of Small Causes at Rangoon, the Recorder of Rangoon shall be deemed to be a " High Court " within the meaning of this paragraph. In section 386, <i>the words</i> or the Court of the Recorder of Rangoon. Section 614.
1883	V	The Indian Merchant Shipping Act, 1883.	Section 15, sub-section (2).
1884	VI	The Inland Steam-vessels Act, 1884.	Section 39, sub-section (2).
1889	XI	The Lower Burma Courts Act, 1889.	So much as has not been repealed.
1890	VIII	The Guardians and Wards Act, 1890.	So much of the schedule as relates to Act XI of 1889.

(The Second Schedule.—Enactments repealed.)

THE SECOND SCHEDULE—concluded.

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council—concluded.</i>			
1891	XII	The Repealing and Amending Act, 1891.	So much of the second schedule as relates to Act XI of 1889.
..	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	So much of the schedule as relates to Act XI of 1889.
1898	V	The Code of Criminal Procedure, 1898.	Section 185, sub-section (2). In section 487, <i>the words</i> and the Recorder of Rangoon.
1900	III	The Prisoners' Act, 1900.	The second and third paragraphs of section 49.

ACT No. VII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March, 1900.)

An Act to amend and provide for the further continuance of the Currency Conversion (Army Annual) Act, 1899.

XIX of 1899. WHEREAS it is expedient to amend the Currency Conversion (Army Annual) Act, 1899, and to provide for its further continuance; It is hereby enacted as follows :—

1. For section 2 of the said Act the following shall be substituted, namely :—

Substitution of a new section for section 2, Act XIX of 1899.

44 & 45 Vict., c. 58.

“ 2. For the purposes of the Army Act or of any similar Act for the time being in force, fifteen rupees of British Indian currency shall be deemed to be the equivalent of one pound of British currency, and any sum of British currency mentioned in the said Act or in any similar Act as aforesaid shall be deemed to be the equivalent of a sum of British Indian currency calculated at that rate of exchange.”

Rate of exchange fixed for calculating the equivalent in British Indian currency of sums of British currency mentioned in the Army Act.

2. The following provisions of the said Act are hereby repealed, namely :—

Repeals.

In section 1, sub-section (1), the word ‘Annual,’ and section 3.

ACT NO. VIII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th June, 1900.)

An Act to amend the Indian Paper Currency Act, 1882, as amended by the Indian Paper Currency Act, 1898.

WHEREAS it is expedient to amend the Indian Paper Currency Act, 1882, as amended by the Indian Paper Currency Act, 1898; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Paper Currency Act, 1900.

(2) It shall come into force at once.

(3) It shall remain in force for two years from the commencement thereof.

Substitution of a new section for section 13A, Act XX of 1882.

2. For section 13A of the Indian Paper Currency Act, 1882, the following section shall be substituted, namely:—

Gold coin or bullion held as a reserve by Secretary of State.

“13A. (1) If the Secretary of State for India shall consent to hold in gold coin or gold bullion the equivalent in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall be issued to an amount equal to the value of gold so held by the Secretary of State for India at the rate fixed by section 12 of the Indian Coinage Act, 1870.

Gold, if transmitted to India, to form part of reserve.

(2) If the Secretary of State for India shall transmit the gold held by him under sub-section (1) or any part thereof in the form of gold coin or gold bullion to the Government of India, the coin or bullion so transmitted shall, when received by the Government

XX
18

of

of India, form part of the currency reserve under section 19.

(3) If the Secretary of State for India shall think it expedient to expend the gold coin or bullion held by him under sub-section (1) or any other funds at his disposal in the purchase of silver bullion and to transmit the same to India for currency purposes, then—

Transmission of silver bullion by Secretary of State.

(a) the silver bullion so purchased shall, until rupees are added to the currency reserve under clause (b) of this sub-section, be held as security for currency notes; and

(b) the Government of India shall, on receiving such silver bullion, give directions for coining the same into rupees as soon as convenient, and shall add to the currency reserve a number of the rupees so coined equal in value, at the rate fixed by section 12 of the Indian Coinage Act, 1870, to the price of the silver bullion so purchased and transmitted as aforesaid.

XXIII of 1870.

(4) (a) Nothing in this Act shall be deemed to prohibit the Government of India from expending any gold coin or gold bullion held as part of the currency reserve under section 19 in the purchase of silver bullion.

Purchase of silver by Government of India.

(b) The silver bullion so purchased shall, until rupees are added to the currency reserve under clause (c) of this sub-section, take the place of the gold so expended as security for the currency notes issued.

(c) On receiving such silver bullion, the Government of India shall give directions for coining the same into rupees as soon as convenient, and shall add to the currency reserve under section 19 a number of the rupees so coined equal in value, at the rate fixed by section 12 of the Indian Coinage Act, 1870, to the gold so expended by the Government of India.

XXIII of 1870.

(5) If the Government of India shall appropriate and set apart in India as a part of the currency reserve

Gold held as reserve by Secretary

reserve

reserve under section 19 an amount of coin of the Government of India equal in value to any notes issued under this section, the gold held by the Secretary of State for India as a reserve to secure the payment of such notes shall be dealt with as the Secretary of State shall direct.

of State
may be re-
placed by
coin added
to reserve
in India.

(6) Coin or bullion held by the Secretary of State or in transit to India, or in the custody of the Mint Master during coinage, shall be separately shown in the abstract of accounts made up under section 27."

Account.

II of 1898.

VIII of 1898.

3. The Indian Paper Currency Act, 1898, and the Indian Paper Currency Act Amendment Act, 1898, are hereby repealed.

Repeal.

ACT NO. IX OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th June,
1900.)

An Act to provide for the Court-fee payable on certain Applications to the Court of the Financial Commissioner of the Punjab.

WHEREAS it is expedient to provide for the court-fee payable on applications to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887; It is hereby enacted as follows :—

<p>VII of 1870. XVIII of 1884. XXV of 1899.</p>	<p>1. To the first column of No. 13 of the First Schedule to the Court-fees Act, 1870, as inserted therein by section 71 of the Punjab Courts Act, 1884, as amended by the Punjab Courts Act, 1899, the following words shall be added, namely:—“or to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887.”</p>	<p>Amendment of No. 13, First Schedule, Act VII, 1870.</p>
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XVI of 1887.

ACT No. X OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21th August, 1900.)

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India during the year 1901, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Indian Census Act, 1900.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(3) It shall come into force at once.

Appointment of census-officers.

2. (1) The Local Government may appoint any person to take, or aid in or supervise the taking of, the census within any specified local area.

(2) Persons so appointed shall be called census-officers.

(3) The Local Government may delegate to such authority as it thinks fit the power of appointing census-officers which is conferred by this section.

Proof of appointment of census-officers, and their status as public servants.

3. (1) A declaration in writing, signed by any officer authorised by the Local Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(2) All census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

4. (1) (a) Every

4. (1) (a) Every officer in command of any body of men belonging to Her Majesty's military or naval forces or to Her Majesty's Indian Marine Service or of any vessel of war,

Discharge of duties of census-officers in certain cases.

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(d) every keeper, secretary or manager of any sarai, hotel, boarding-house, lodging-house or club, and

(e) every occupant of immoveable property and every manager or officer of a railway or other commercial or industrial enterprise who has at the time of the taking of the census not less than fifty persons employed under him, or living on or in such property,

shall, if so required by the District Magistrate, or by such officer as the Local Government may appoint in this behalf, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or inmates of his house or present on or in such immoveable property, as such Magistrate or officer may, by written order, direct.

(2) All the provisions of this Act relating to census-officers shall apply, so far as they can be made applicable, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

XLV of
1860.

5. (1) The District Magistrate, or such officer as the Local Government may appoint in this behalf for any local area, may, by written order, which shall have

Power of District Magistrate to call upon

certain persons to give assistance.

have effect throughout the limits of his district or of such local area, as the case may be, call upon—

- (a) all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889, or their agents, VII of 1875. III of 1889.
- (b) all village-officers and servants in estates as defined in the Madras Proprietary Estates' Village Service Act, 1894 (Madras), and Mad. II of 1894.
- (c) all members of panchayats appointed under the Village-Chaukidari Act, 1870 (Bengal), or the Sylhet and Cachar Rural Police Regulation, 1883, all ghatwals and all circle-tahsildars appointed under the Chota Nagpur Rural Police Act, 1887 (Bengal), and all village-headmen in the Kumaun Division of the North-Western Provinces, Ben. VI of 1870. I of 1883. Ben. V of 1887.

to give such assistance as he needs towards the taking of a census of the persons who are at the time of the taking of the census on the lands of such owners, occupiers, holders, farmers and assignees, or within the limits of such fisheries or in the villages or other areas for which such village-officers and servants, panchayats, ghatwals, circle-tahsildars or village-headmen are appointed, as the case may be.

(2) Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees or their agents, and such village-officers and servants, the members of such panchayats and such ghatwals, circle-tahsildars and village-headmen shall be bound to obey it.

Asking of questions by census-officers.

6. Every census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

7. Every

7. Every person of whom any question is asked under the last foregoing section shall be legally bound to answer such question to the best of his knowledge or belief :

Obligation to answer questions.

Provided that no person shall be bound to state the name of any female member of his household, and that no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

8. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on or affix to the place such letters, marks or numbers as may be necessary for the purposes of the census.

Occupier to allow access, and permit affixing of numbers.

9. (1) Subject to such orders as the Local Government may issue in this behalf, any census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of its being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the inmates of such house or part at the time of the taking of the census.

Occupier to fill up schedule.

(2) When any such schedule has been so left, the occupier of the house or part to which it relates shall fill it up, or cause it to be filled up, to the best of his knowledge or belief, so far as regards the inmates of such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as he may direct.

10. In any of the following cases, namely :—

Penalties.

- (a) if a census-officer or a person appointed to be a census-officer or a person lawfully required to give assistance towards the taking

taking of a census refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act, or with any rule duly made thereunder,

- (b) if a census-officer intentionally puts any offensive or improper question or knowingly makes any false return,
- (c) if any person refuses to answer to the best of his knowledge or belief any question asked of him by a census-officer which he is legally bound by section 7 so to answer,
- (d) if any person occupying any house, enclosure, vessel or other place refuses to allow a census-officer such reasonable access thereto as he is required by section 8 to allow,
- (e) if any person removes, obliterates, alters or injures before the thirty-first day of March, 1901, any letters, marks or numbers which have been painted or affixed for the purposes of the census,
- (f) if any occupier of a dwelling-house or part thereof knowingly and without sufficient cause fails to comply with the provisions of section 9 or makes any false return under that section,

he shall be punishable with fine which may extend to fifty rupees.

Jurisdiction
in prosecu-
tions.

11. (1) The Local Government may, by notification in the official Gazette, declare before what classes of Magistrates prosecutions under this Act may be instituted.

(2) Unless and until a notification is published under sub-section (1), all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere before the District Magistrate.

(3) No

(3) No prosecution under this Act shall be instituted except with the previous sanction of the Local Government, or with the previous sanction of some officer authorised by the Local Government in this behalf.

12. No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such officer or any schedule delivered under section 9, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding or any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898.

Records of census not open to inspection or admissible in evidence in certain proceedings.

I of 1872.

V of 1898.

13. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority may, at the time appointed for the taking of the census of British India during the year 1901, cause the census of the municipality to be taken wholly or in part by any method authorised by this Act.

Temporary suspension of local enactments and rules as to mode of taking census in municipalities.

14. Notwithstanding anything in any enactment or rule, in regard to municipal, local or village funds, the Local Government may direct that the whole or any part of any expenses incurred for anything done in accordance with this Act, may be charged to any municipal, local or village fund constituted for, and on behalf of, the area within which such expenses were incurred.

Power in regard to expenses.

15. (1) The Governor General in Council may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Governor General in Council may make rules providing—

(a) for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance

towards

towards the taking of a census and for the general instructions to be issued to such officers and persons ;

(b) for the enumeration of persons employed on railways and their families and of other classes of the population for whom it may be necessary or expedient to make special provision ;

(c) for the enumeration of persons travelling on the night when a census is taken.

(3) The Governor General in Council may, by general or special order, direct that all or any of the powers conferred upon him by this section may also be exercised by any Local Government with respect to the territories administered by it.

ACT No. XI OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th August, 1900.)

An Act further to amend the Indian Limitation Act, 1877.

XV of 1877. **WHEREAS** it is expedient further to amend the Indian Limitation Act, 1877; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Limitation Amendment Act, 1900; and

Short title and commencement.

(2) It shall come into force at once.

XV of 1877. 2. After No. 146 of the second schedule to the Indian Limitation Act, 1877, the following shall be inserted, namely:—

Addition to second schedule, Act XV, 1877.

146A. By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Thirty years .	The date of dispossession or discontinuance.
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ACT NO. XII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th August, 1900.)

An Act to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS it is expedient to amend the Bankers' Books Evidence Act, 1891; It is hereby enacted as follows:—

XVIII o
1891.Short title
and com-
mencement.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1900; and

(2) It shall come into force at once.

Amended
definition of
"company".

2. For the definition of "company" contained in section 2, sub-section (1), of the said Act the following shall be substituted, namely:—

"(1) 'company' means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent;".

ACT No. XIII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th October, 1900.)

An Act to amend the law relating to agricultural land in the Punjab.

WHEREAS it is expedient to amend the law relating to agricultural land in the Punjab; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Punjab Alienation of Land Act, 1900.

Short title, extent and commencement.

(2) It extends to all the territories for the time being administered by the Lieutenant-Governor of the Punjab; and

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

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

Definitions.

(1) the expression "agriculturist" means a person holding agricultural land who either in his own name or in the name of his ancestor in the main line was recorded as the owner of land or as a hereditary tenant or as an occupancy-tenant in any estate at the first regular settlement, or, if the first regular settlement was made in or since the year 1870, then at the first regular settlement or at such previous settlement as the Local Government may, by order in writing, determine:

Provided that, if since the making of any such settlement a Civil Court or other competent authority has before the commencement of this Act decided that

that any person was wrongly included in or omitted from the record thereof or that any right recorded in the record is erroneously stated, this definition shall be construed with due regard to such decision :

Provided also that the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, extend or restrict this definition so as to include or exclude any persons or classes of persons in any part of the territories to which this Act extends :

(2) all expressions which are defined by section 4 of the Punjab Tenancy Act, 1887, or by section 3 of the Punjab Land-revenue Act, 1887, shall, subject to the provisions of this Act, have the meanings assigned to them in the said sections respectively; and the expressions "record-of-rights" and "annual record" shall have the meanings assigned to them respectively in Chapter IV of the said last-mentioned Act;

(3) the expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

- (a) the sites of buildings and other structures on such land;
- (b) a share in the profits of an estate or holding;
- (c) any dues or any fixed percentage of the land-revenue payable by an inferior land-owner to a superior land-owner;
- (d) a right to receive rent; and
- (e) any right to water enjoyed by the owner or occupier of land as such :

(4) the expression "permanent alienation" includes sales, exchanges, gifts and wills, but does not include any gift for a religious or charitable purpose whether made *inter vivos* or by will :

(5) the

(Permanent Alienation of Land.—Section 3.)

(5) the expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money : and

(6) the expression "conditional sale" includes any agreement whereby in default of payment of the mortgage-money or interest at a certain time the land will be absolutely transferred to the mortgagee.

Permanent Alienation of Land.

3. (1) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—

- (a) the alienor is not a member of an agricultural tribe ; or
- (b) the alienor is a member of an agricultural tribe and the alienee holds land as an agriculturist in the village where the land alienated is situated ; or
- (c) the alienor is a member of an agricultural tribe and the alienee is a member of the same tribe or of a tribe in the same group :

Provided that, if an agriculturist desires to make a permanent alienation of land acquired under clause (b), he shall not be at liberty to make such permanent alienation under this sub-section unless the alienee is a member of an agricultural tribe or a person holding land as an agriculturist in the village.

(2) Except in the cases provided for in sub-section (1), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by a Deputy Commissioner :

Provided

Sanction of Deputy Commissioner required to certain permanent alienation.

Provided that sanction may be given after the act of alienation is otherwise completed.

(3) The Deputy Commissioner shall enquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub-section (2).

Agricultural
tribes.

4. The Local Government shall, by notification in the local official Gazette published with the previous sanction of the Governor General in Council, determine what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of this Act.

Saving for
rights in land
alienated.

5. When a Deputy Commissioner sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or right of pre-emption.

Temporary Alienations of Land.

Forms of
mortgage
permitted in
certain cases.

6. (1) If a member of an agricultural tribe mortgages his land and the mortgagee is not a member of the same tribe, or of a tribe in the same group, the mortgage shall be made in one of the following forms:—

- (a) in the form of a usufructuary mortgage, by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor; or
- (b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor

(Temporary Alienations of Land.—Section 6.)

gagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Deputy Commissioner to place him in possession for such term, not exceeding twenty years, as the Deputy Commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Deputy Commissioner thinks reasonable; or

(c) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant subject to the payment of rent at such rate as may be agreed upon not exceeding sixteen annas per rupee of the amount of the land-revenue in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon and for such term as may be agreed on, the mortgagor having no right to alienate his right of cultivating occupancy and the mortgagee having no right to eject the mortgagor unless on the grounds mentioned in section 39 of the Punjab Tenancy Act, 1887; or

XVI of 1887.

(d) in any form which the Local Government may, by general or special order, permit to be used.

(2) If in the case of a mortgage in form (c) the mortgagor is ejected or relinquishes or abandons cultivating occupancy of the land, the mortgage shall take effect as a usufructuary mortgage in form

(a)

(a) for such term not exceeding twenty years from the date of ejection, relinquishment or abandonment, and for such sum of money as the Deputy Commissioner considers to be reasonable.

Rules apply-
ing to per-
mitted
mortgages.

7. In the case of mortgages made under section 6—

- (1) no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent;
- (2) if the mortgage is in form (a) or form (b), then at the end of such period of possession the mortgage-debt shall be extinguished;
- (3) the mortgagor may redeem his land at any time during the currency of the mortgage, on payment of the mortgage-debt or, in the case of a mortgage in form (a) or form (b), of such proportion of the mortgage-debt as the Deputy Commissioner determines to be equitable; and
- (4) in the case of a usufructuary mortgage the mortgagor shall not be deemed to bind himself personally to repay the mortgage-money.

Conditions in
permitted
mortgages.

8. (1) In a mortgage made under section 6, the following conditions may be added by agreement between the parties:—

- (a) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof;
- (b) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or to do any act affecting the permanent value of the land; and
- (c) any condition which the Local Government by general or special order may declare to be admissible.

(2) In

(2) In mortgages made under section 6 any condition not permitted by or under this Act shall be null and void.

9. (1) If a member of an agricultural tribe makes a mortgage of his land in any manner or form not permitted by or under this Act, the Deputy Commissioner shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim.

Power to revise mortgage made in form not permitted.

(2) If a member of an agricultural tribe has before the commencement of this Act made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Deputy Commissioner shall be empowered at any time during the currency of the mortgage to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept in lieu of the said mortgage a mortgage which may at the mortgagee's option be either in form (a) or in form (b) as permitted by section 6 and which shall be made for such period not exceeding the period permitted by the said section and for such sum of money as the Deputy Commissioner considers to be reasonable.

(3) If proceedings for the enforcement of a condition intended to operate by way of conditional sale are instituted or are pending at the commencement of this Act in any Civil Court or if a suit is instituted in any Civil Court on a mortgage to which sub-section (1) or sub-section (2) applies, the Court shall refer the case to the Deputy Commissioner with a view to the exercise of the power conferred by the sub-section applying thereto.

10. In any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void.

Future mortgage by way of conditional sale not permitted.

11. Any

Leases and farms.

11. Any member of an agricultural tribe may make a lease or farm of his land for any term not exceeding twenty years, and any lease or farm made by a member of an agricultural tribe for a longer term than twenty years shall, if the lessee or farmer is not a member of the same tribe or of a tribe in the same group, be deemed to be a lease or farm for the term permitted by this section.

Restriction on power to make further temporary alienation.

12. (1) During the currency of a mortgage made under section 6 in form (a) or form (b) or of a lease or farm under this Act, the owner shall be at liberty to make a further temporary alienation of the same land for such term as together with the term of the current mortgage, lease or farm will make up a term not exceeding the full term of twenty years.

(2) Any such further temporary alienation, if made for a longer term than is permitted by this section, shall be deemed to be a temporary alienation for the term permitted by this section.

Ejectment of mortgagee, lessee or farmer remaining in possession after term.

13. If a mortgagee, lessee or farmer holding possession under a mortgage made under section 6 or under a lease or farm made under section 11 or under a mortgage, lease or farm made under section 12 remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm, the Deputy Commissioner may, of his own motion or on the application of the person entitled to possession, eject such mortgagee, lessee or farmer and place the person so entitled in possession.

General Provisions.

Effect of permanent alienation made without sanction.

14. Any permanent alienation which under section 3 is not to take effect as such until the sanction of a Deputy Commissioner is given thereto shall, until such sanction is given or if such sanction has been refused, take effect as a usufructuary mortgage in form (a) permitted by section 6 for such term not exceeding twenty years and on such conditions as the Deputy Commissioner considers to be reasonable.

15. Every

15. Every agreement whereby a member of an agricultural tribe purports to alienate or charge the produce of his land or any part of, or share in, such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of a Deputy Commissioner is given thereto, and shall, until such sanction is given or if such sanction is refused, take effect as if it had been made for one year.

Sanction of Deputy Commissioner required to certain alienations of, or charges on, produce of land.

Explanation.—The produce of land means—

- (a) crops and other products of the earth standing or ungathered on the holding;
- (b) crops and other products of the earth which have been grown on the land during the past year and have been reaped or gathered.

16. (1) No land belonging to a member of an agricultural tribe shall be sold in execution of any decree or order of any Civil or Revenue Court, whether made before or after the commencement of this Act.

Execution-sale of land forbidden.

(2) Nothing in this section shall affect the right of Government to recover arrears of land-revenue, or any dues which are recoverable as arrears of land-revenue, in any manner now permitted by law.

17. Notwithstanding anything in the Indian Registration Act, 1877, or in any rules made under section 69 of that Act,—

Registration.

- (1) an instrument which contravenes any provision of this Act shall not be admitted to registration;
- (2) an instrument which records or gives effect to any transaction which requires the sanction of a Deputy Commissioner shall not be admitted to registration until a certified copy of the order giving such sanction is produced to the officer empowered to register such instrument.

18. (1) Where

Record-of
rights and
annual re-
cord.

18. (1) Where, by reason of any transaction which under this Act requires the sanction of a Deputy Commissioner, a person claims to have acquired a right the acquisition whereof he is bound to report under section 34 of the Punjab Land-revenue Act, 1887, such person shall, in making his report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record-of-rights or in any annual record until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Act.

XVII of
1887.

(2) No right claimed by reason of any transaction or condition which is declared by this Act to be null and void shall be entered in the record-of-rights or in any annual record.

Application
of certain
provisions
of the Pun-
jab Land-
revenue
Act, 1887.

19. Subject to the provisions of this Act, the provisions of Chapter II of the Punjab Land-revenue Act, 1887, shall, in so far as they are applicable, apply to the proceedings of Revenue-officers under this Act.

XVII of
1887.

Appearance
of legal prac-
titioners
forbidden.

20. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue-officer under this Act.

Explanation.—The term “legal practitioner” includes a mukhtar.

Jurisdiction
of Civil
Courts ex-
cluded.

21. (1) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of.

(2) No Civil Court shall take cognisance of the manner in which the Local Government or any Revenue-officer exercises any power vested in it or in him by or under this Act.

Addition to
section 77,
Act XVI,
1887.

22. In sub-section (3) of section 77 of the Punjab Tenancy Act, 1887, the following words shall be added to clause (c) of the First Group of suits therein mentioned, namely:—

XVI of 1887

“and suits relating to the rent to be paid under a

a

(General Provisions.—Sections 23-25.)

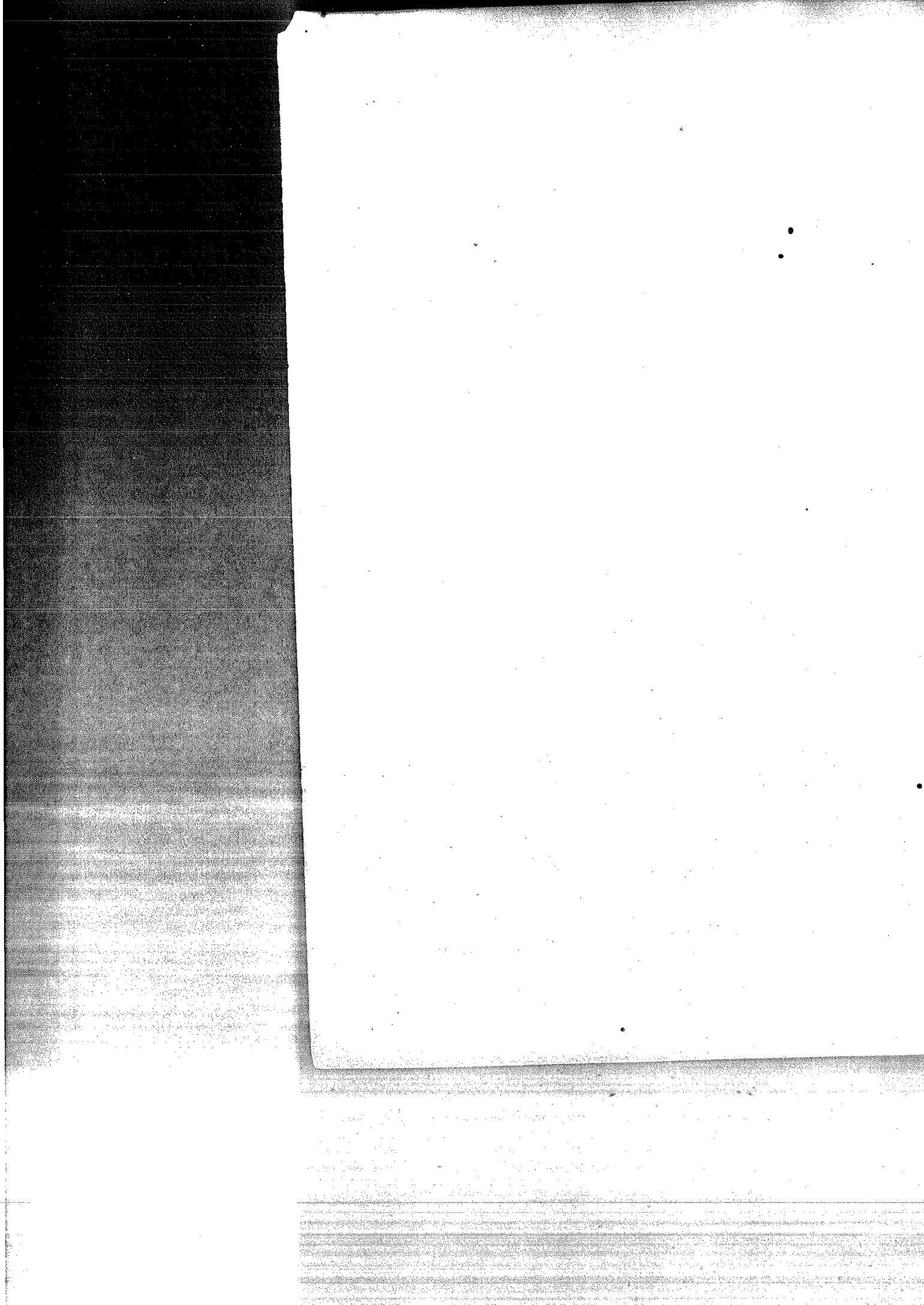
a mortgage made in accordance with form (c) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900."

23. The powers conferred by this Act upon a Deputy Commissioner may be exercised by a Revenue-officer of higher rank, or by any officer authorised by the Local Government in this behalf. Exercise of powers of Deputy Commissioner.

24. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exempt any district or part of a district or any person or class of persons from the operation of this Act or of any of the provisions thereof. Exemption.

25. (1) The Local Government may make rules for carrying into effect the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules prescribing the Revenue-officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.



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