

A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1879.

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING,

1880.

TITLES
OF
ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL
IN THE YEAR 1879.

- I. An Act to consolidate and amend the law relating to Stamps.
- II. to make better provision for recording evidence in the Central Provinces.
- III. to authorize the destruction of Useless Records.
- IV. to consolidate and amend the law relating to Railways in India.
- V. to amend the Presidency Banks Act, 1876.
- VI. for the preservation of wild elephants.
- VII. to provide for the temporary appointment in the Panjáb of an Additional Financial Commissioner.
- VIII. to amend the North-Western Provinces Land-Revenue Act, 1873, and the North-Western Provinces Local Rates Act, 1878.
- IX. to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.
- X. to provide for the recovery of certain advances made to Landholders.
- XI. The Local Authorities Loan Act, 1879.
- XII. An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.
- XIII. to amend the law relating to Civil Courts in Oudh.
- XIV. for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.
- XV. to appoint Commissioners for the Port of Rangoon.
- XVI. to restrict the transport of Salt by Sea.
- XVII. for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.
- XVIII. to consolidate and amend the law relating to Legal Practitioners.

- XIX. An Act to amend the law in force in Thánás Raipur and Khattra.
XX. to provide for the better prevention of Glanders and Farcy among Horses.
XXI. to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

Exd.—J.G.

Kaipur and Khattrā.
of Glanders and
committed in places
Extradition of Crim-

THE STAMP ACT, 1879.

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ACTS REPEALED.

ACT No. I OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 17th January 1879).

An Act to consolidate and amend the law relating to Stamps.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Stamp Act, 1879:" Short title.

It extends to the whole of British India ; Local extent.

And it shall come into force on the first day of April, 1879. Commencement.

2. On and after that day, the Acts specified in the third schedule shall be repealed to the extent specified in the third column of the same schedule. Repeal of enactments.

But all rules made under the General Stamp Act, 1869, and then in force shall, so far as they are consistent with this Act, be deemed to have been made hereunder. And all references made to the General Stamp Act, 1869, in enactments passed subsequently thereto, shall be deemed to be made to this Act.

3. In this Act, unless there is something repugnant in the subject or context,— Interpretation-clause.

(1.) "Banker" includes a bank and any person acting as a banker: "Banker."

(2.) "Bill of exchange" includes a hundí: "Bill of exchange."

(3.) "Bill of lading" means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking

to deliver the same at a place and to a person therein mentioned or indicated :

“ Bond.”

(4.) “ Bond ” means—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another :

“ Chargeable.”

(5.) “ Chargeable ” means, as applied to an instrument executed or first executed after this Act comes into force, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed :

“ Cheque.”

(6.) “ Cheque ” means a bill of exchange drawn on a banker and payable on demand :

“ Chief Controlling Revenue-Authority.”

(7.) “ Chief Controlling Revenue-Authority ” means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue : in the Presidency of Bombay, outside Sind and the limits of the town of Bombay, a Revenue Commissioner : in Sind, the Commissioner : in the Panjáb, the Financial Commissioner ; and elsewhere, the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office :

“ Collector.”

(8.) “ Collector ” means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a District, and includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the

official

official Gazette, appoint in this behalf by name or in virtue of his office :

(9.) "Conveyance" means any instrument by which property (whether moveable or immoveable) is transferred on sale: "Conveyance."

(10.) "Duly stamped," as applied to an instrument, means stamped, or written upon paper bearing an impressed stamp, in accordance with the law in force in British India when such instrument was executed or first executed: "Duly stamped."

(11.) "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-Authority: "Instrument of partition."

(12.) "Lease" means a lease of immoveable property and includes also "Lease."

(a) a pattá,

(b) a kabúliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immoveable property,

(c) any instrument by which tolls of any description are let, and

(d) any writing on an application for a lease intended to signify that the application is granted:

(13.) "Mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of another, a right over specified property: "Mortgage-deed."

(14.) "Paper" includes vellum, parchment or any other material on which an instrument may be written: "Paper."

(15.) "Policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event: "Policy of insurance."

It includes a life-policy :

(16.) "Power-of-attorney"

"Power-of-attorney."

(16.) "Power-of-attorney" means any instrument (not chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a specified person to act in the stead of the person executing it :

"Receipt."

(17.) "Receipt" means any note, memorandum, writing or advertisement whereby any money or any bill of exchange, cheque or promissory note is acknowledged to have been received, or whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or which signifies or imports any such acknowledgment, whether the same is or is not signed with the name of any person :

"Schedule."

(18.) "Schedule" means a schedule to this Act annexed :

"Settlement."

(19.) "Settlement" means any non-testamentary disposition in writing, of moveable or immoveable property, made—

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or

(c) for any religious or charitable purpose :

It includes an agreement in writing to make such a disposition :

"Vessel."

(20.) "Vessel" means anything made for the conveyance by water of human beings or property :

"Written,"
"writing."

(21.) "Written" and "writing" include every mode in which words or figures can be expressed upon paper.

Schedules to be read as part of Act.

4. The schedules and everything therein contained shall be read and construed as part of this Act.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

Instruments

5. Subject to the exemptions contained in the second

“*any instrument*” means any instrument under the law relating to (being in force) empowering a (the stead of the person exe-

as any note, memorandum, whereby any money or any or promissory note is ac- received, or whereby any acknowledged to have been debt, or whereby any debt debt or demand, is acknow- red or discharged, or which acknowledgment, whether with the name of any person : a schedule to this Act

any non-testamentary moveable or immoveable pro-

marriage,

distributing property of the those for whom he desires.

charitable purpose :

in writing to make such

anything made for the con- of beings or property :

“*writing*” include every figures can be expressed upon

everything therein contained as part of this Act.

CHAPTER II

DUTIES.

Duty of Instruments to Duty.

exemptions contained in the second

second schedule, the following instruments shall be chargeable with duty of the amount indicated in the first schedule as the proper duty therefor respectively, that is to say—

(a) every instrument mentioned in the first schedule, and which, not having been previously executed by any person, is executed in British India on or after the first day of April, 1879 ;

(b) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in British India ; and

(c) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in the first schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India.

6. Where, in the case of any sale, lease, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed for the conveyance, lease, mortgage or settlement in the first schedule, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

The parties may determine for themselves which of the instruments so employed shall, for the purposes of this section, be deemed to be the principal instrument.

7. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Subject to the provisions of the first clause of this section, an instrument so framed as to come within two or more of the descriptions in the first schedule shall, where the duties chargeable thereunder are dif-

ferent,

chargeable with duty.

Several instruments used in single transactions.

Instruments relating to several distinct matters.

Instruments coming within several descriptions in schedule I.

ferent, be chargeable only with the highest of such duties; but nothing herein contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

Power to reduce or remit duty.

8. The Governor General in Council may, by order published in the *Gazette of India*,

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) cancel or vary such order to the extent of the powers hereby given.

B.—Of Stamps and the Mode of using them.

Duties how to be paid.

9. Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(a) according to the provisions herein contained, or

(b) when no such provision is applicable thereto—as the Governor General in Council may by rule direct.

The rules made under this section may, among other matters, regulate—

(1) in the case of each kind of instrument—the description of stamps which may be used,

(2) in the case of instruments stamped with impressed stamps—the number of stamps which may be used,

(3) in the case of hundís—the size of the paper on which they are written.

Use of adhesive stamps.

10. The following instruments may be stamped with adhesive stamps, namely:—

(a) instruments chargeable with the duty of one anna,

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anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(b) bills of exchange, cheques and promissory notes drawn or made out of British India;

(c) entry as an advocate, vakil or attorney on the roll of a High Court;

(d) notarial acts; and

(e) transfers by endorsement of shares of public Companies and Associations.

11. Whoever affixes any adhesive stamp to any instrument chargeable with duty and which has been executed by any person, shall, when affixing such stamp, cancel the same so that it cannot be used again,

Cancellation of adhesive stamps.

and whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

12. Every instrument written upon paper stamped with an impressed stamp, shall be written in such manner, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

How instruments stamped with impressed stamps are to be written.

13. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written: provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Only one instrument to be on same stamp.

14. Every instrument written in contravention

Instrument written contrary to sec.

tion 12 or 13
deemed un-
stamped.

Denoting
duty.

of section twelve or thirteen, shall be deemed to be unstamped.

15. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application be made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument in such manner as the Governor General in Council may by rule prescribe.

C.—Of the Time of stamping Instruments.

Instruments
executed in
British India.

16. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

Instruments
other than
bills, cheques
and notes
executed out
of British
India.

17. Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in British India; or, where such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, and he shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques
and notes
drawn out of
British
India.

18. The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same:

Provided that if, at the time any such bill, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section eleven, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than

by

by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled. But nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

19. Where an instrument is chargeable with *ad valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs or dollars, such duty shall be calculated on the value of such money in the currency of British India according to the following scale :—

Conversion of amount expressed in certain currencies.

One pound sterling or pound currency is equivalent to ten rupees :

One hundred francs are equivalent to forty rupees :

One Mexican or China dollar is equivalent to two rupees four annas.

20. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

Conversion of amount expressed in other foreign currencies.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Stock and marketable securities how to be valued.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Effect of statement of rate of exchange or average price.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not

Instruments reserving interest.

be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

How transfer in consideration of debt, or subject to future payment, &c., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty.

Valuation in case of annuity, &c.

25. Where an instrument is executed to secure the payment of an annuity, or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument, or the consideration for such conveyance (as the case may be), shall, for the purposes of this Act, be deemed to be—

(a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years next after the date of such instrument or conveyance; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the total amount which will or may be payable as aforesaid during the period of twelve years next after the date of such instrument or conveyance.

Stamp where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before this Act comes into force) could not have been, ascertained, at the date of its execution or

first

first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Facts affecting duty to be set forth in instrument.

28. (a) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

Direction as to duty in case of certain conveyances.

(b.) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(c.) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(d.) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the whole, or any part, thereof, to any other person or persons, and the property is in consequence conveyed by the original

seller

seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers :

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(e) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller ; or where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(a) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57 and 60 (a) and (b) of the first schedule—by the person drawing, making or executing such instrument :

(b) in the case of a policy of insurance—by the insured :

(c) in the case of a conveyance—by the grantee :
in the case of a lease or agreement to lease—by the lessee or intended lessee :

(d) in the case of a counterpart of a lease—by the lessor :

(e) in

(e) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the property comprised therein, or when the partition is made in execution of an order passed by a Revenue-Authority, in such proportion as such Authority directs :

(f) in the case of an instrument of exchange—by the parties in equal shares ; and

(g) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates.

CHAPTER III.

ADJUDICATION AS TO STAMPS.

30. When any instrument, whether executed or not, and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable :

Adjudication as to proper stamp.

and may for that purpose require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Collector may call for abstract and evidence.

Provided that no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable ; and every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable,

Proviso.

able,

able, be relieved from any penalty he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by
Collector.

31. When an instrument brought to the Collector under section thirty is in his opinion one of a description chargeable with duty, and

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section thirty, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

When such instrument is in his opinion not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped, or not chargeable with duty, as the case may be; and if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Nothing in this section shall authorize the Collector to endorse—

any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution (as the case may be);

any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or

any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof on paper not duly stamped.

32. Every

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Stamps.

32. Every payment of a fee under section thirty shall be made in stamps, or cash, as the Governor General in Council may by rule direct.

Payment of fees under section 30 how made.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

33. Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office except an officer of Police,

Examination and impounding of instruments.

before whom any instrument chargeable in his opinion with duty is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed :

Provided that nothing herein contained shall be deemed to require any Magistrate or Judge of a criminal Court to examine or impound any instrument coming before him in the course of any proceeding other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates Act :

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The Local Government may from time to time, in cases of doubt, determine who shall be deemed to be, for the purpose of this section, persons in charge of public offices.

34. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having

Instruments not duly

stamped inadmissible in evidence, &c.

having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped :

Proviso.

Provided that—

Instruments admissible on payment of duty and penalty.

1st, any such instrument, not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;

and in certain criminal proceedings.

2nd, nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a criminal Court other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates Act ;

Admission of instrument not to be questioned.

3rd, when an instrument has been admitted in evidence, such admission shall not, except as provided in section fifty, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Instruments impounded how dealt with.

35. When the person impounding an instrument under section thirty-three has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section thirty-four, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of the duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

In every other case, the person so impounding an instrument shall send it in original to the Collector.

Collector's power to refund penalty

36. When a copy of an instrument is sent to a Collector under the first paragraph of section thirty-five,

parties authority to
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five, he may, if he thinks fit, upon application made to him in this behalf, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument, or

paid under
section 35,
1st para.

when such instrument has been impounded only because it has been written in contravention of section twelve, or section thirteen, he may refund the whole penalty so paid.

37. When the Collector impounds any instrument under section thirty-three, or receives any instrument sent to him under the second clause of section thirty-five, he shall adopt the following procedure :—

Collector's
power to
stamp instru-
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pounded.

(a.) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and shall upon application made to him in this behalf deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.

(b.) If the Collector is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees ; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less than five rupees and not more than ten times the amount of such duty or portion, as he thinks fit :

Provided that, when such instrument has been impounded only because it has been written in contravention of section twelve or section thirteen, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

Every certificate under clause (a) of this section shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

Instruments unduly stamped by accident.

38. If any instrument chargeable with duty and which is not duly stamped is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections thirty-three and thirty-seven, receive such amount and proceed as next hereinafter prescribed.

Nothing in this section applies to an instrument chargeable with a duty of one anna only or to a bill of exchange or promissory note.

Endorsement of instruments on which duty has been paid under section 34, 37 or 38.

39. When the duty and penalty (if any) leviable in respect of any instrument have been paid under section thirty-four, section thirty-seven or section thirty-eight, the person admitting such instrument in evidence, or the Collector (as the case may be), shall certify by endorsement thereon that the proper duty or (as the case may be) the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section thirty-four shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate:

Provided

Provided also that nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.

40. The payment of a penalty under this chapter in respect of an instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp-law in respect of such instrument: Prosecution for offence against stamp-law.

But no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty. Proviso.

41. When any duty or penalty has been paid, under section thirty-four, section thirty-seven or section thirty-eight, by any person in respect of an instrument, and by agreement, or under the provisions of section twenty-nine or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid; and for the purpose of such recovery any certificate granted in respect of such instrument under section thirty-nine shall be conclusive evidence of the matters therein certified. Persons paying duty or penalty may recover same in certain cases.

42. When any penalty is paid under section thirty-four or thirty-seven, the Chief Controlling Revenue-Authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part. Remission of penalty paid under section 34 or 37.

43. If any instrument sent to a Collector under the second paragraph of section thirty-five be lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage. Non-liability for loss of instruments sent under section 35.

When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned Copy may be made of instruments so sent.

mentioned person and authenticated by the person impounding such instrument.

Power of payee to stamp bills, notes and cheques received by him unstamped.

44. When any bill of exchange or promissory note chargeable with the duty of one anna, or any cheque, is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in manner hereinbefore provided may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid.

But nothing herein contained shall relieve any person from any penalty he may have incurred in relation to such bill, note or cheque.

CHAPTER V.

REFERENCE AND REVISION.

Procedure where Collector feels doubt as to duty chargeable.

45. If any Collector acting under section thirty, section thirty-seven or section thirty-eight feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-Authority, and such Authority shall consider the case and send a copy of its decision to the Collector, and he shall proceed to assess and charge the duty (if any) in conformity with such decision.

Reference by Revenue-Authority to High Court.

46. The Chief Controlling Revenue-Authority may state any case referred to it under section forty-five or otherwise coming to its notice and refer such case with its own opinion thereon, if the case arises in the territories for the time being administered by the Governor of Fort Saint George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay as the case may be: if it arises in the North-Western Provinces or Oudh—to the High Court of Judicature for the North-Western Provinces: if it arises in the territories for

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if it arises in the Central Provinces—to the High
Court of Judicature at Bombay ; and if it arises in any
other part of British India—to the High Court of
Judicature at Fort William.

Every such case shall be decided by not less than
three Judges of the High Court or Chief Court to
which it is referred, and in case of difference the
opinion of the majority shall prevail.

47. If the High Court or Chief Court is not
satisfied that the statements contained in the case are
sufficient to enable it to determine the questions raised
thereby, the Court may refer the case back to the
Revenue-Authority by which it was stated, to make
such additions thereto or alterations therein as the
Court may direct in that behalf.

Power of
Court to call
for further
particulars.

48. The High Court or Chief Court, upon the
hearing of any such case, shall decide the questions
raised thereby and shall deliver its judgment thereon
containing the grounds on which such decision is
founded : and it shall send to the Revenue-Authority
by which the case was stated, a copy of such judg-
ment under the seal of the Court and the signature
of the Registrar, and the Revenue-Authority shall, on
receiving such copy, dispose of the case conformably
to such judgment.

Procedure in
disposing of
reference.

49. If any Court, other than a Court mentioned
in section forty-six feels doubt as to the amount of
duty to be paid in respect of any instrument under the
first proviso to section thirty-four, the Judge may
draw up a statement of the case and refer it with his
own opinion thereon for the decision of the High
Court or Chief Court to which, if he were the Chief
Controlling Revenue-Authority, he would under sec-
tion forty-six refer the same, and such Court shall
deal with the case as if it had been referred under
section forty-six, and send a copy of its judgment
under the seal of the Court and the signature of the
Registrar to the Judge making the reference, who
shall, on receiving such copy, dispose of the case con-
formably to such judgment.

Reference
by other
Courts to
High Court.

References

References made under this section, when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

50. When any Court in the exercise of civil or revenue jurisdiction makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section thirty-four, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration; and if it is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section thirty-four, or without the payment of a higher duty and penalty than those paid, may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

When any declaration has been recorded under this section, the Court recording the same shall send a copy thereof to the Collector and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument; and thereupon the Collector may, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section thirty-nine, or in section forty, prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that no such prosecution shall be instituted where the amount (including duty and penalty) which according to the determination of such Court was payable in respect of the instrument under section thirty-four is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty:

Provided

Provided also that, except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section thirty-nine.

CHAPTER VI.

ALLOWANCES FOR SPOILED STAMPS AND STAMPS NO LONGER REQUIRED.

51. Subject to such rules as may be made by the Governor General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

Allowance
for spoiled
stamps.

(a.) The stamp on any paper inadvertently and undesignedly spoiled, obliterated or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any person :

(b.) The stamp used or intended to be used for any bill of exchange, cheque or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of his hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negotiated, issued or put in circulation, or made use of in any other manner, and which, being a bill of exchange or cheque, has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

(c.) The stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory

missory note, may have been delivered to the payee; provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque or note:

(d.) The stamp used for any of the following instruments, that is to say—

- (1) an instrument executed by any party thereto, but afterwards found by a competent Court to be absolutely void in law from the beginning:
- (2) an instrument executed by any person, but afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended:
- (3) an instrument executed by any party thereto, but which, by reason of the death of any person, by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed:
- (4) an instrument executed by any party thereto which, for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended:
- (5) an instrument executed by any party thereto which, by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose:
- (6) an instrument executed by any party thereto which becomes useless in consequence of the transaction intended to be thereby effect-

ed being effected by some other instrument duly stamped :

- (7) an instrument executed by any party thereto which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that, in the case of an executed instrument—

- (a) such instrument is given up to be cancelled :
- (b) the application for relief is made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent out of British India, and in that case within six months after it has been received back in British India :

Provided also that, in the case of stamped paper not having any executed instrument written thereon, the application for relief is made within six months after the stamp has been spoiled as aforesaid.

52. When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or when any stamp used for an instrument has been inadvertently rendered useless under section fourteen owing to such instrument having been written in contravention of the

Allowance for misused stamps.

provisions

provisions of section twelve, the Collector may, on application made within six months after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Allowance under sections 51 and 52 how to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof (a) other stamps of the same description and value, or, (b) if required, and he thinks fit, stamps of any other description to the same amount in value, or, (c) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

Allowance for stamps not required for use.

54. When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction that it was purchased by such person with a *bond fide* intention to use it, and that he has paid the full price thereof, and that it was so purchased within the period of six months next preceding the date on which it is so delivered.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Powers to make rules relating to sale of stamps.

55. The Local Government, subject to the control of the Governor General in Council, may make rules consistent herewith for regulating the supply and sale of stamps and stamped papers, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

Power to make rules generally to carry out Act.

56. The Governor General in Council may make rules consistent herewith to carry out generally the purposes of this Act.

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57. All powers to make appointments, rules and orders conferred by this Act may be exercised from time to time as occasion requires.

Certain powers exercisable from time to time.

All rules made under this Act, other than rules made under section fifty-five, shall be published in the *Gazette of India*, and all rules made under section fifty-five shall be published in the local *Gazette*. All rules published as required by this section shall, upon such publication, have the force of law.

Publication of rules.

58. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Obligation to give receipt in certain cases.

59. Nothing herein contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

Saving as to Court-fees.

60. Every Local Government shall cause this Act to be carefully translated into the principal vernacular languages of the territories administered by it. A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

Act to be translated, indexed and sold cheaply.

CHAPTER VIII.

CRIMINAL OFFENCES AND PROCEDURE.

61. Any person drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped,

Penalty for executing, &c., instrument not duly stamped.

any person executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, and

any person voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punished with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section thirty-four, section thirty-seven or section fifty, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

Penalty for failure to cancel adhesive stamp.

62. Any person required by section eleven to cancel an adhesive stamp and failing to cancel such stamp in manner prescribed by that section, shall be punished with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of section 27.

63. Any person who, with intent to defraud the Government of any duty,

(a) executes any instrument in which all the facts and circumstances required by section twenty-seven to be set forth in such instrument are not fully and truly set forth, or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits, fully and truly to set forth therein all such facts and circumstances,

shall be punished with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

64. Any person who, being required under section fifty-eight to give a receipt, refuses or neglects to give the same, or who, with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered, shall be punished with fine which may extend to one hundred rupees.

Penalty for not making out policy.

65. Every person who—

(a) receives, or takes credit for, any premium or consideration for any contract of insurance,

and

and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy,

or making, &c., any policy not duly stamped.

shall be punished with fine which may extend to two hundred rupees.

66. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punished with fine which may extend to one thousand rupees.

Penalty for not drawing full number of bills or marine policies purporting to in sets.

67. Whoever, with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made, and whoever, knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same,

Penalty for post-dating bills, &c.;

and whoever, with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force,

for other devices to defraud the revenue.

shall be punished with fine which may extend to one thousand rupees.

68. Any person appointed to sell stamps who disobeys any rule made under section fifty-five, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

69. No

Stamps.

Institution and conduct of prosecutions.

69. No prosecution in respect of any offence punishable under this Act, or the General Stamp Act, 1869, or any Act thereby repealed, shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

The Chief Controlling Revenue-Authority, or any officer authorized by it in this behalf, may stay any such prosecution or compound any such offence.

Jurisdiction of Magistrates.

70. No Magistrate other than a Presidency-Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

71. Every such offence committed in respect of any instrument may be tried in any district or Presidency-town in which such instrument is found, as well as in any district or Presidency-town in which such offence might be tried under the law relating to criminal procedure for the time being in force.

Operation of other laws not barred.

72. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it.

Provided that no person shall be punished twice for the same offence.

[ACT I

respect of any offence under the General Stamp Act, shall be instituted by the Collector or such other authority generally, or the Collector in that behalf.

Revenue-Authority, or any other authority, may stay any such offence.

than a Presidency the powers are not less than those of the second class shall

in respect of any district or Presidency is found, as well as in which such law relating to criminal law in force.

deemed to be printed under any which constitutes an agreement made under it: shall be punished twice

SCHEDULE I.
STAMP-DUTY ON INSTRUMENTS.
(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper, when such book or paper is left in the creditor's possession</p>	One anna.
<p>2. ADMINISTRATION-BOND</p> <p>ADOPTION-DEED ... See <i>Instrument, No. 38.</i></p>	The same duty as a Security-Bond (No. 14).
<p>3. AFFIDAVIT or declaration in writing on oath or affirmation made before a person authorized by law to administer an oath <i>See Exemptions, Schedule II (No. 1).</i></p>	One rupee.
<p>4. AGREEMENT TO LEASE</p>	The same duty as a Lease (No. 39).
<p>5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT <i>See Exemptions, Schedule II (No. 2).</i></p>	<p>(a.) If relating to the sale of any Government security, share in a Company or Association or Bill of Exchange One anna.</p> <p>(b.) Whereby the owner or occupier of land in a village in the Bombay Presidency agrees to relinquish his rights therein to the Government, and to accept rights in other land in exchange for the right so relinquished Four annas.</p> <p>(c.) If not otherwise provided for by this Act Eight annas.</p>
<p>6. APPOINTMENT, in execution of a power, whether of trustees or of property moveable or immovable, where made by any writing not being a Will</p>	Fifteen rupees.

Stamps.

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>7. APPRAISEMENT or valuation made otherwise than under an order of the Court in the course of a suit</p> <p><i>See Exemptions, Schedule II (Nos. 3 & 4).</i></p>	<p>The same duty as an Award (No. 10).</p>
<p>APPRENTICESHIP-DEED</p> <p><i>See Instrument, No. 31.</i></p>	
<p>8. ARTICLES OF ASSOCIATION OF A COMPANY</p>	<p>Twenty-five rupees.</p>
<p>9. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court</p>	<p>Two hundred and fifty rupees.</p>
<p>ASSIGNMENT</p> <p><i>See Conveyance, No. 21 and Transfer, No. 60.</i></p>	
<p>AUTHORITY TO ADOPT</p> <p><i>See Instrument, No. 38.</i></p>	
<p>10. AWARD, that is to say, any decision in writing by an arbitrator or umpire on a reference made otherwise than by an order of the Court in the course of a suit</p> <p><i>See Exemption, Schedule II (No. 6).</i></p>	<p>(a.) Where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000</p> <p>(b.) In any other case</p> <p>The same duty as a Bond (No. 13) for such amount.</p> <p>Five rupees.</p>

Stamps.

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

PROPER STAMP-DUTY.

DESCRIPTION OF INSTRUMENT.

PROPER STAMP-DUTY.

The same duty as an Award (No. 10).

... five rupees.

... and fifty rupees.

The same duty as a Bond (No. 13) for such amount.

11. BILL OF EXCHANGE OR PROMISSORY NOTE,
not being a cheque, bond, bank-note or currency-note

(a.) When payable on demand and the amount exceeds Rs. 20

One anna.

(b.) When payable otherwise than on demand, but not more than one year after date or sight.

If drawn singly.

If drawn in set of two, for each part of the set.

If drawn in set of three, for each part of the set.

Rs. A. P. Rs. A. P. Rs. A. P.

If the amount of the Rs. bill or note does not exceed 200

0 2 0 0 1 0 0 1 0

If it exceeds 200 and does not exceed 400

0 4 0 0 2 0 0 2 0

400

0 6 0 0 3 0 0 2 0

600

0 10 0 0 5 0 0 4 0

1,000

0 12 0 0 6 0 0 4 0

1,200

1 0 0 0 8 0 0 6 0

1,600

1 8 0 0 12 0 0 8 0

For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000 ...

1 8 0 0 12 0 0 8 0

For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 30,000 ...

3 0 0 1 8 0 1 0 0

And for every Rs. 10,000 or part thereof in excess of Rs. 30,000

6 0 0 3 0 0 2 0 0

(c.) When payable at more than one year after date or sight

The same duty as a Bond (No. 13) for the amount of such bill or note.

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>12. BILL OF LADING, ... See Exemption, Schedule II (No. 7).</p>	<p>Four annas. If a Bill of Lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.</p>
<p>13. BOND (not otherwise provided for by this Act) ... See Administration-Bond (No. 2), Customs-Bond (No. 24), Indemnity-Bond (No. 28), Security-Bond (No. 14). See Exemptions, Schedule II (No. 8).</p>	<p>When the amount or value secured does not exceed ... Rs. 10 Two annas. When such amount or value exceeds Rs. 10, but does not exceed ... 50 Four annas. When such amount or value exceeds Rs. 50, but does not exceed ... 100 Eight annas. and for every Rs. 100 or part thereof in excess of Rs. 100 up to ... 1,000 Eight annas. and for every Rs. 500 or part thereof in excess of 1,000 Two rupees eight annas.</p>
<p>14. BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money received by virtue thereof ... See Exemptions, Schedule II (Nos. 8 and 12).</p>	<p>(a.) When the amount secured does not exceed ... 1,000 Rs. The same duty as a Bond (No. 13). (b.) In any other case ... Five rupees.</p>
<p>15. BOTTOMRY-BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage...</p>	<p>... The same duty as a Bond (No. 13).</p>
<p>16. CERTIFICATE OF SALE granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer ...</p>	<p>... The same duty as a Conveyance (No. 21) for a consideration equal to the amount of the purchase-money.</p>

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>17. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or to become proprietor of shares, scrip or stock in or of any Company or Association ...</p>	One anna.
<p>18. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer ...</p>	One rupee.
<p>19. CHEQUE, for an amount exceeding twenty rupees ..</p>	One anna.
<p>20. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors ...</p>	Ten rupees.
<p>21. CONVEYANCE, not being a TRANSFER mentioned in No. 60 ...</p>	<p>When the amount of the consideration for such conveyance as set forth therein does not exceed Rs. 50 Eight annas. When it exceeds Rs. 50 but does not exceed ... 100 One rupee. For every Rs. 100 or part thereof in excess of Rs. 100 up to ... 1,000 One rupee. and for every Rs. 500 or part thereof in excess of 1,000 Five rupees.</p>

See Exemptions, Schedule II (Nos. 5 and 17).

SCHEDULE I—continued.
 STAMP-DUTY ON INSTRUMENTS—continued.
 (See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
CO-PARTNERSHIP ... See <i>Instrument, No. 32.</i>	
22. COPY OR EXTRACT, certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to Court-fees ... See <i>Exemptions, Schedule II (Nos. 9 and 10).</i>	(a.) If the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee ... Eight annas. (b.) In any other case ... One rupee.
23. COUNTERPART OR DUPLICATE of any instrument chargeable with duty, and in respect of which the proper duty has been paid ...	(a.) If the duty with which the original instrument is chargeable does not exceed one rupee ... The same duty as is payable on the original. (b.) In any other case ... One rupee.
24. CUSTOMS-BOND ...	The same duty as a Security-Bond (No. 14).
25. DECLARATION OF ANY TRUST of or concerning any property, when made by any writing not being a will ...	Fifteen rupees.
26. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees ...	One anna.
DEPOSIT OF TITLE-DEEDS ... See <i>Instrument, No. 29.</i>	
DISSOLUTION OF PARTNERSHIP ... See <i>Instrument, No. 33.</i>	
DUPLICATE ... See <i>Counterpart, No. 23.</i>	

SCHEDULE I—*continued.*
 STAMP-DUTY ON INSTRUMENTS—*continued.*
 (See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
27. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exercise of powers conferred on such Court by letters patent ... <i>See Exemption, Schedule II (No. 11).</i> EXCHANGE ... EXTRACT ... FURTHER CHARGE ... GIFT ...	In the case of an Advocate or Vakil Five hundred rupees. In the case of an Attorney ... Two hundred and fifty rupees. <i>See Instrument, No. 35.</i> <i>See Copy, No. 22.</i> <i>See Instrument, No. 30.</i> <i>See Instrument, No. 36.</i>
28. INDEMNITY-BOND INSPECTORSHIP-DEED ...	The same duty as a Security-Bond (No. 14). <i>See Composition-deed, No. 20.</i>
29. INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT OF A LOAN made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property ...	The same duty as a Bill of Exchange (No. 11 (b)) for the amount secured. Half the duty payable on a Bill of Exchange (No. 11 (b)) for the amount secured.
30. INSTRUMENT IMPOSING A FURTHER CHARGE ON MORTGAGED PROPERTY ...	The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such instrument. The same duty as a Bond (No. 13) for the amount secured by such instrument.
31. INSTRUMENT OF APPRENTICESHIP, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employ-	

SCHEDULE I—*continued.*STAMP-DUTY ON INSTRUMENTS—*continued.*

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
ment, except articles of clerkship (No. 9 of this schedule)	Five rupees.
<i>See Exemption, Schedule II (No. 12 (c)).</i>	
32. INSTRUMENT OF CO-PARTNERSHIP	Ten rupees.
33. INSTRUMENT OF DISSOLUTION OF PARTNERSHIP	Five rupees.
34. INSTRUMENT OF DIVORCE, that is to say, any instrument by which any person effects the dissolution of his marriage	One rupee.
35. INSTRUMENT OF EXCHANGE of any property	The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property of greater value as set forth in such instrument.
36. INSTRUMENT OF GIFT (OTHER THAN A SETTLEMENT OR WILL)	The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property as set forth in such instrument.
37. INSTRUMENT OF PARTITION	The same duty as a Bond (No. 13) for the amount of the value of the property divided as set forth in such instrument.
38. INSTRUMENT (OTHER THAN A WILL) CONFERRING OR PURPORTING TO CONFERR AN AUTHORITY TO ADOPT	Ten rupees.
INSURANCE	<i>See Policy, No. 49.</i>

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

STAMP-DUTY.

DESCRIPTION OF INSTRUMENT.

PROPER STAMP-DUTY.

as a Convey-
for a consid-
to the value
of greater
forth in such

as a Convey-
for a consid-
to the value
as set forth
ment.

as a Bond
the amount of
the property
forth in such

39. LEASE.

See *Agreement to lease (No. 4)*.
See *Exemptions, Schedule II (No. 13)*.

(a) Where by such lease the rent is fixed and no premium is paid or delivered and such lease purports to be for a term—

of less than one year ...

of not less than one year, but not more than three years ...

exceeding three years ...

The same duty as a Bond (No. 13) for the whole amount payable or deliverable under such lease.

The same duty as a Bond (No. 13) for the average annual rent reserved.

The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent reserved.

(b) Where by such lease the rent is fixed and no premium is paid or delivered and such lease does not purport to be for any definite term ...

The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.

(c) Where the lease is granted for a fine or premium, and where no rent is reserved ...

The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease.

(d) Where the lease is granted for a fine or premium in addition to rent reserved ...

The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease, in addition to the duty which would have been pay-

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>40. LETTER OF ALLOTMENT OF SHARES in any Company, or proposed Company, or in respect of any loan to be raised by any Company or proposed Company ...</p>	<p>able on such lease if no fine or premium had been paid or delivered: Provided that, when an agreement to lease is stamped with the <i>ad valorem</i> stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas. ... One anna.</p>
<p>41. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn ...</p>	<p>... One anna.</p>
<p>42. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion ...</p>	<p>... Ten rupees.</p>
<p>43. MEMORANDUM OF ASSOCIATION OF A COMPANY ...</p>	<p>... Fifteen rupees.</p>
<p>44. MORTGAGE-DEED not provided for by No. 14, No. 15, No. 29 or No. 55 of this schedule. See Exemptions, Schedule II (No. 12 and No. 14 (b)).</p>	<p>(a) When at the time of execution possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given ... The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such deed</p>

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

PROPER STAMP-DUTY.

of such lease if no fine
premium had been paid
therefor:
that, when an agree-
ment for a lease is stamped
with a *valorem* stamp
for a lease, and a
guarance of such
is subsequently
the duty on such
shall not exceed eight

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>44. MORTGAGE-DEED not provided for by No. 14, No. 15, No. 29 or No. 55 of this schedule—continued.</p> <p>See Exemptions, Schedule II (No. 12 and No. 14 (b)).</p>	<p>(b) When at the time of execution possession is not given or agreed to be given as aforesaid</p> <p>The same duty as a Bond (No. 13) for the amount secured by such deed.</p>
<p>45. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as a Notary Public</p>	<p>One rupee.</p>
<p>46. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock or marketable security exceeding in value twenty rupees</p>	<p>One anna.</p>
<p>47. NOTE OF PROTEST BY THE MASTER OF A SHIP</p>	<p>Eight annas.</p>
<p>PARTITION</p>	<p>See Instrument, No. 37.</p>
<p>PARTNERSHIP</p>	<p>See Instrument, Nos. 32 and 33.</p>
<p>48. PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION, or for the extension of the term of the exclusive privilege of making or using or selling such invention in India</p>	<p>One hundred rupees.</p>

Conveyance
consideration
amount secured

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.		
	If drawn singly.	If drawn in duplicate, for each part.	
	Rs. A. P.	Rs. A. P.	
49. POLICY OF INSURANCE ... <i>See Exemption, Schedule II (No. 14 (a)).</i>	(a). In the case of Sea-insurance—		
	When the amount insured does not exceed ... Rs. 1,000	0 4 0	0 2 0
	And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0 4 0	0 2 0
	(b). In the case of any other insurance—		
	When the amount insured does not exceed ... Rs. 1,000	0 6 0	0 3 0
	And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000	0 6 0	0 3 0
50. POWER-OF-ATTORNEY, not being a proxy chargeable under No. 51.	(a). When executed for the sole purpose of procuring the presentation of one or more documents for registration in relation to a single transaction ...		
		Eight annas.	
	(b). When authorizing one person or more to act in a single transaction other than that mentioned in (a)		One rupee.
	(c). When authorizing not more than five persons to act jointly and severally in more than one transaction or generally ...		Five rupees.
	(d). When authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ...		Ten rupees.
(e). In any other case ...		One rupee for each person authorized	
<i>Explanation.</i> —For the purposes of this number more persons than one when belonging to the same firm shall be deemed to be one person.			

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

STAMP-DUTY.	DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
When in duplicate for each part.	PROMISSORY NOTE See <i>Bill of Exchange, No. 11.</i>	
Rs. A. P. 0 2 0	PROTEST , that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note ... See <i>Notarial Act, No. 45.</i>	
0 2 0	PROTEST BY THE MASTER OF A SHIP , that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such ... See <i>Notarial Act, No. 45.</i>	
0 3 0	51. PROXY empowering any person to vote at any one meeting of—	
0 3 0	(a.) Members of a Company whose stock or funds is or are divided into shares and transferable : (b.) Municipal Commissioners : (c.) Proprietors, Members or Contributors to the funds of any Institution ...	One anna.
	52. RECEIPT FOR ANY MONEY OR OTHER PROPERTY THE AMOUNT OR VALUE OF WHICH EXCEEDS TWENTY RUPEES ... See <i>Exemptions, Schedule II (No. 15).</i>	One anna.

SCHEDULE I—continued.

STAMP-DUTY ON INSTRUMENTS—continued.

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.	
53. RE-CONVEYANCE OF MORTGAGED PROPERTY ...	(a.) If the consideration for which the property was mortgaged does not exceed ... Rs. 1,000 (b.) In any other case ...	The same duty as a Conveyance (No. 21) for the amount of such consideration as set forth in the conveyance. Ten rupees.
54. RELEASE, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property ...	(a.) If the amount or value of the claim does not exceed ... 1,000 (b.) In any other case ...	The same duty as a Bond (No. 13) for such amount or value as set forth in the release. Five rupees.
55. RESPONDENTIA-BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination	The same duty as a Bond (No. 13).
56. REVOCATION OF ANY TRUST of or concerning any property by any instrument other than a Will	Ten rupees.
57. SETTLEMENT	The same duty as a Bond (No. 13) for a sum equal to the amount or value of the property settled as set forth in such settlement.
58. SHIPPING-ORDER for or relating to the conveyance of goods on board of any vessel	One anna.
SPECIFICATION ...	See <i>Petition, No. 48.</i>	

SCHEDULE I—concluded.

STAMP-DUTY ON INSTRUMENTS—concluded.

(See section 5).

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>59. SURRENDER OF LEASE ... See <i>Exemption, Schedule II (No. 16).</i></p>	<p>(a.) When the duty with which the lease is chargeable does not exceed five rupees ... (b.) In any other case ...</p> <p>The duty with which such lease is chargeable. Five rupees.</p>
<p>60. TRANSFER ... See <i>Exemptions, Schedule II (No. 17).</i></p>	<p>(a.) Of shares in a Company or Association ... (b.) Of any interest secured by a Bond, Lease, Mortgage-deed or Policy of Insurance— 1. If the duty on such Bond, Lease, Mortgage-deed or Policy does not exceed five rupees ... 2. In any other case ...</p> <p>One-quarter of the duty payable on a Conveyance (No. 21). The duty with which such Bond, Lease, Mortgage-deed or Policy of Insurance is chargeable. Five rupees.</p>
<p>TRUST ... See <i>Declaration, No. 25. Revocation, No. 56.</i></p> <p>VALUATION ... See <i>Appraisement, No. 7.</i></p>	<p>(c.) Of any property under the Administrator General's Act, 1874, section 31 ... (d.) Of any trust-property from one trustee to another trustee without consideration ...</p> <p>Ten rupees. Five rupees.</p>
<p>61. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be ...</p>	<p>Four annas.</p>

THE STAMP-DUTY.

duty as a Conveyance (No. 21) for the such consideration set forth in the re-

duty as a Bond for such amount or set forth in the

duty as a Bond

duty as a Bond a sum equal to the value of the as set forth

SCHEDULE II—*continued.*INSTRUMENTS EXEMPTED FROM STAMP-DUTY—*continued.*

- (b) headmen nominated under rules framed in accordance with Bengal Act III of 1876, section 99, for the due performance of their duties under that Act ;
- (c) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.
9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.
10. Copy of registration of emigrants furnished under section 27 or section 29 of the Indian Emigration Act, 1871.
11. Entry—
- (a) of an advocate, vakil or attorney on the roll of any High Court, when he has previously been enrolled in a High Court established by Royal Charter ;
- (b) on the roll of any High Court, as an attorney, of an articulated clerk bound as such before this Act comes into force.
12. Instruments—
- (a) executed by persons taking advances under the Land Improvement Act, 1871, or by their sureties, as security for the repayment of such advances ;
- (b) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money received by virtue thereof ;
- (c) of apprenticeship executed by a Magistrate under Act XIX of 1850 or by which a person is apprenticed by or at the charge of any public charity.
13. Leases and Counterparts—
- (a) Leases of fisheries granted under the Burma Fisheries Act, 1875 ;
- (b) Lease, executed in the case of a cultivator without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the annual rent reserved does not exceed one hundred rupees ;
- (c) Counterpart of any lease granted to a cultivator.
14. Letter—
- (a) of cover or engagement to issue a policy of insurance :
Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned ;
- (b) of hypothecation accompanying a bill of exchange.

15. Receipt—

SCHEDULE II—*continued.*INSTRUMENTS EXEMPTED FROM STAMP-DUTY—*continued.*

- (b) headmen nominated under rules framed in accordance with Bengal Act III of 1876, section 99, for the due performance of their duties under that Act ;
- (c) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.
9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.
10. Copy of registration of emigrants furnished under section 27 or section 29 of the Indian Emigration Act, 1871.
11. Entry—
- (a) of an advocate, vakil or attorney on the roll of any High Court, when he has previously been enrolled in a High Court established by Royal Charter ;
- (b) on the roll of any High Court, as an attorney, of an articulated clerk bound as such before this Act comes into force.
12. Instruments—
- (a) executed by persons taking advances under the Land Improvement Act, 1871, or by their sureties, as security for the repayment of such advances ;
- (b) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money received by virtue thereof ;
- (c) of apprenticeship executed by a Magistrate under Act XIX of 1850 or by which a person is apprenticed by or at the charge of any public charity.
13. Leases and Counterparts—
- (a) Leases of fisheries granted under the Burma Fisheries Act, 1875 ;
- (b) Lease, executed in the case of a cultivator without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the annual rent reserved does not exceed one hundred rupees ;
- (c) Counterpart of any lease granted to a cultivator.
14. Letter—
- (a) of cover or engagement to issue a policy of insurance :
Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned ;
- (b) of hypothecation accompanying a bill of exchange.

15. Receipt—

SCHEDULE II—concluded.

INSTRUMENTS EXEMPTED FROM STAMP-DUTY—concluded.

15. Receipt—

- (a) endorsed on or contained in any instrument duly stamped, or exempted under this schedule, No. 18, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured ;
- (b) for any payment of money without consideration ;
- (c) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of inám lands ;
- (d) for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army, when serving in such capacity ;
- (e) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity ;
- (f) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier in either of the said Armies, and serving in such capacity ;
- (g) given by a headman or lambardár for land-revenue or taxes collected by him ;
- (h) given for money or securities for money deposited in the hands of any banker, to be accounted for :

Provided the same be not expressed to be received of, or in the hands of, any other than the person to whom the same is to be accounted for :

Provided also, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

16. Surrender of lease when such lease is exempted from duty.

17. Transfers by endorsement—

- (a) of a bill of exchange, cheque or promissory note ;
- (b) of a bill of lading ;
- (c) of a policy of insurance ;
- (d) of mortgages of rates and taxes authorized by any Act for the time being in force in British India ;
- (e) of securities of the Government of India ;
- (f) of a warrant for goods (No. 61 of schedule I).

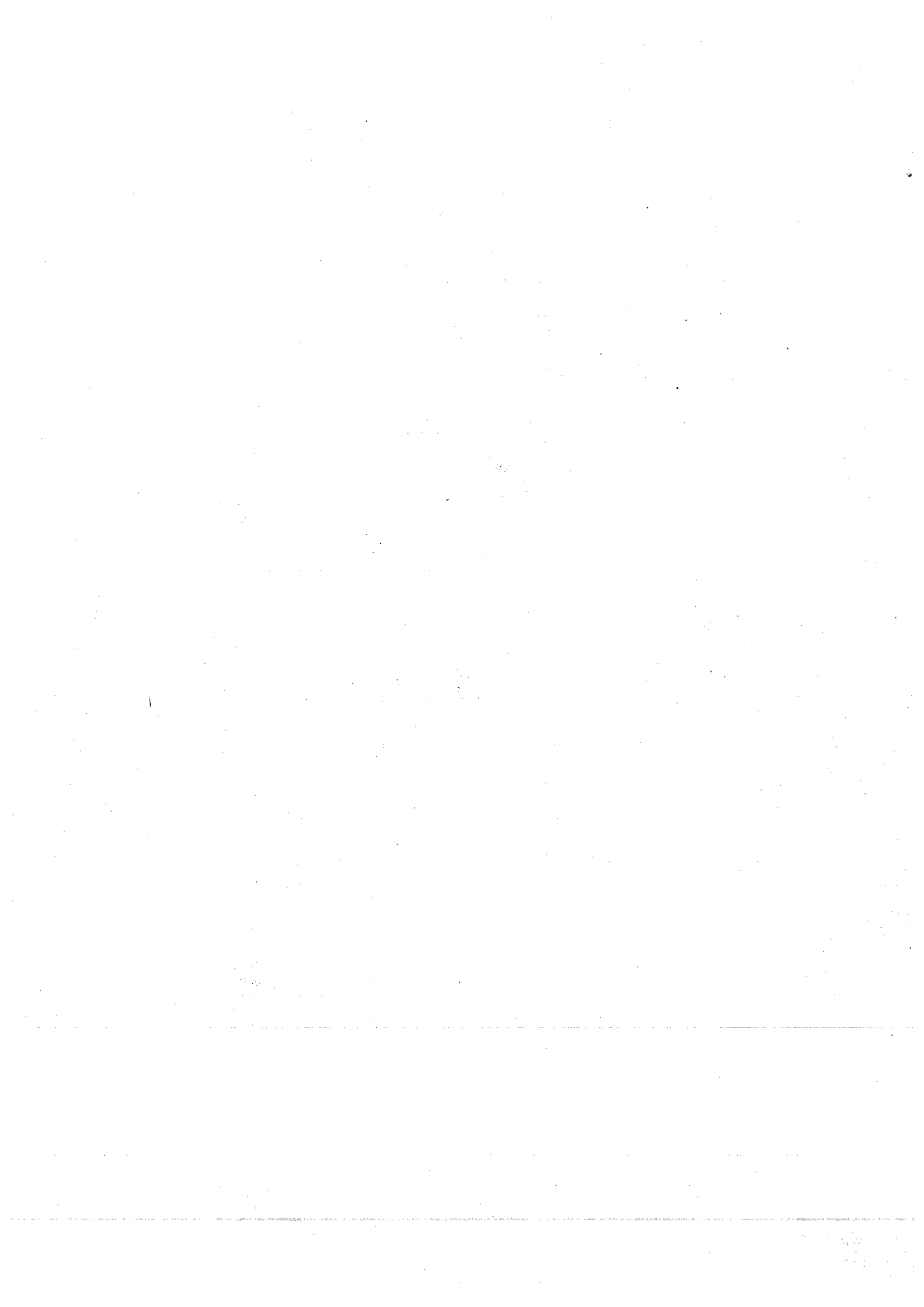
General Exemption.

18. Any instrument executed by, or on behalf of, or in favour of, Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument.

SCHEDULE III.

ACTS REPEALED.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847 ...	Copyright ...	In section five, the words "without being subject to any stamp or duty."
X of 1866 ...	The Indian Companies Act.	In section eleven, the words "shall bear the same stamp as if it were a deed, and." In section sixteen, the words "they shall bear the same stamp as if they were contained in a deed."
XVIII of 1869 ...	The General Stamp Act.	The whole.
VII of 1871 ...	The Indian Emigration Act.	In sections twenty-seven and twenty-nine, the words "which shall not require a stamp."
XIX of 1873 ...	The North-Western Provinces Land-Revenue Act, 1873.	In section one hundred and eighty-three, the words "stamped or."
II of 1874 ...	The Administrator General's Act.	In section thirty-one, the words "bearing a stamp of ten rupees and."
IX of 1874 ...	The European Vagrancy Act.	In section seventeen, the words "may be on unstamped paper and."
XV of 1876 ...	Bombay Municipal Debentures.	In section two, the words "and no such indorsement shall be chargeable with any stamp-duty."



ACT No. II OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th February 1879).

An Act to make better provision for recording evidence in the Central Provinces.

WHEREAS, in order to provide for the recording of evidence in civil suits in the Central Provinces by the Judge in English or in his own language, it is expedient to amend the Central Provinces Laws Act, 1875; It is hereby enacted as follows:—

1. This Act may be called "The Central Provinces Laws Act, 1879;"

And it shall come into force at once.

2. The following sections shall be deemed to have been added to the said Central Provinces Laws Act, 1875, immediately after the Code of Civil Procedure came into force, that is to say:—

"11. Sections 184, 185 and 189 of the Code of Civil Procedure are hereby repealed.

"12. For sections 182, 190 and 191 of the same Code, the following shall be substituted (namely):—

"182. A note of the essential points of the evidence of each witness shall be made at the time, and in the course, of oral examination, by the Judge, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed with, and form part of, the record of the case.

"190. If

[Print one anna and three pies.]

Preamble.

Short title.

Commencement.

Addition to Act XX of 1875.

Local repeal of sections 184, 185 and 189 of the Code of Civil Procedure.

Sections substituted for sections 182, 190 and 191 of same Code.

Note of evidence to be taken.

Judge unable to make note to record reason of his inability.

“ 190. If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record.

Power to use note made by Judge dying or removed before conclusion of suit.

“ 191. When the Judge making a note of the evidence, or causing one to be made as above required, dies or is removed from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such note as if he himself had made it or caused it to be made.”

ACT II, 1879.]

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each note to
open Court,
shall form

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ACT No. III OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 5th March 1879).

An Act to authorize the destruction of Useless Records.

WHEREAS it is expedient to provide for the destruction or other disposal of useless records, books and papers in Courts and Revenue-offices; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Destruction of Records Act, 1879": it extends to the whole of British India; and it shall come into force at once.

Short title, Local extent, Commencement.

2. The High Court may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of such High Court, or the Courts of civil and criminal jurisdiction subordinate thereto, as the High Court may consider useless or unworthy of being permanently preserved.

Power to High Court to make rules for disposal of records, &c.

So far as regards his own Court, the Court of Small Causes in Rangoon and the Courts of the Magistrates within the local limits of his ordinary civil jurisdiction, the Recorder of Rangoon shall, for the purposes of this section, be deemed to be a High Court.

3. Each of the High Courts of Judicature at Fort William, Madras and Bombay may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or being in the custody of

Similar power to Presidency High Courts with respect to documents in Insolvency Courts and Administrator General's office.

(a) the local Court for the relief of Insolvent Debtors held under the provisions of the eleventh and twelfth of Victoria, chapter twenty-one,

(b) the

[This section was not in force.]

(b) the local Administrator General,
as the High Court may consider useless or unworthy of being permanently preserved.

Similar power to Chief Controlling Revenue-Authority.

4. The Chief Controlling Revenue-Authority may from time to time make rules respecting the disposal, by destruction or otherwise, of such records, books and papers belonging to or in the custody of the Revenue Courts and offices as it may consider useless or unworthy of being permanently preserved.

Rules when to have force of law.

5. All rules made under this Act shall, after being confirmed by the Local Government and sanctioned by the Governor General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Validation of rules as to destruction of documents.

6. All rules and orders heretofore made by a Local Government, a High Court or a Chief Controlling Revenue-Authority for the destruction or other disposal of useless records, books and papers belonging to or in the custody of any Court or Revenue-office shall be deemed to have had the force of law from the date on which they were made, and all such rules now in force shall continue to have the force of law until they are rescinded by rules made under this Act; and no suit or other proceeding shall be instituted, maintained or continued against any person for the disposal, by destruction or otherwise, of any records, books or papers in accordance with any such rules or with any order made by a Local Government, High Court or Chief Controlling Revenue-Authority.

Bar of suits.

Interpretation-clause.

7. In this Act "Chief Controlling Revenue-Authority" means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces—the Board of Revenue: in the Presidency of Bombay, outside Sind and the limits of the town of Bombay—a Revenue Commissioner: in Sind—the Commissioner: in the Panjáb—the Financial Commissioner; and elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint

1879.] *Destruction of Records.*

appoint in this behalf by name or in virtue of his office.

8. Nothing herein contained shall be deemed to authorize the destruction of any document which, under the provisions of any law for the time being in force, is to be kept and maintained.

Saving of documents kept under provision of law.

9. The enactments specified in the schedule here-to annexed shall be repealed to the extent mentioned in the third column.

Repeal of enactments.

THE SCHEDULE.

(See section 9).

Enactments repealed.

(a).—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1875 ...	The Central Provinces Laws Act, 1875.	In section eight, clause (c), the last twenty-one words.
XVIII of 1876 ...	The Oudh Laws Act, 1876.	In section thirty-nine, clause (e), the last eighteen words.

(b).—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and year.	Subject or short title.	Extent of repeal.
VI of 1865 ...	To authorize the destruction of Useless Records in certain Courts of the Bombay Presidency.	The whole.
V of 1869 ...	To authorize the destruction of Useless Records in the Courts of the Province of Sind.	The whole.

(c).—REGULATION UNDER 33 VIC., c. 3.

Number and year.	Subject or short title.	Extent of repeal.
III of 1877 ...	The Ajmer Laws Regulation, 1877.	In section forty, clause (c), the last twenty-one words.



THE INDIAN RAILWAY ACT, 1879.

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[Price six annas and six pies.]

SECTIONS.

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ACT No. IV OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th
March, 1879).

An Act to consolidate and amend the law relating
to Railways in India.

WHEREAS it is expedient to consolidate and Preamble.
amend the law relating to Railways in India;
It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Railway Short title.
Act, 1879."

It extends to the whole of British India and, so Local extent.
far as regards subjects of Her Majesty the Empress
of India, to the dominions of Princes and States in
India in alliance with Her said Majesty;

And it shall come into force on the first day of Commence-
July, 1879. ment.

2. On and from that day, the Acts specified in Repeal of
the first schedule hereto annexed shall be repealed. Acts.

All rules made, notifications published and powers
conferred under any of such Acts, or any enactment
thereby repealed, shall (so far as they are consistent
herewith) be deemed to have been respectively made,
published and conferred under this Act.

Nothing in the Carriers Act, 1865, shall apply to
carriers by railway.

3. In this Act, unless there be something repug- Interpreta-
nant in the subject or context, — tion-clause.

"Railway" means a Railway for the public con- "Railway."
veyance of passengers or goods:

It

It includes—

(a) all land within the fences or other boundary-marks prescribed under section fifty-two ;

(b) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a Railway ;

(c) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a Railway ;

(d) all vessels and rafts used for the purpose of carrying on the traffic of a Railway.

In section four, "Railway" includes a Railway under construction, and in the remaining part of this section and in the following sections (namely), six, eight, sixteen, twenty-five, thirty, thirty-three, thirty-four, forty to forty-six (both inclusive), fifty-two and fifty-three, "Railway" includes a Railway under construction and a Railway not used for the public conveyance of passengers or goods :

" Railway-Administration."

" Railway-Administration " means, in the case of a Railway worked by Government or a Native State, the Manager of such Railway, and in the case of a Railway worked by a Company or private individual, such Company or individual :

" Railway-servant."

" Railway-servant " means any person employed by a Railway-Administration, to perform any function in connection with a Railway,

and in section twenty-five, last clause, sections twenty-six, twenty-seven, thirty-eight and forty-two includes any person employed to perform any such function by any other person in execution of a contract into which he has entered with a Railway-Administration.

Right to use locomotives.

4. It shall be lawful, with the previous sanction of the Governor General in Council, to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

CHAPTER II.

DUTIES OF THE RAILWAY-ADMINISTRATION.

5. No Railway or portion or extension of, or addition to, a Railway shall be opened for the public conveyance of passengers until the Railway-Administration has given to the Governor General in Council notice in writing of the intention of opening the same, and until an officer appointed by the Governor General in Council to inspect such Railway, portion, extension or addition has, after inspection thereof, reported in writing to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using the same.

Railway when to be opened.

6. Every Railway-Administration shall, within forty-eight hours after the occurrence upon the Railway of—

Accidents to be reported.

(a) any accident attended with loss of human life or serious injury to person or property,

(b) any accident of a description usually attended with such loss or injury, and

(c) any accident of any other description which the Governor General in Council may, from time to time, direct to be notified,

give notice thereof to the Local Government ;

and the Station-master nearest to the place at which the accident occurs, or, where there is no Station-master, the officer in charge of the section of the Railway on which the accident occurs, shall, without unnecessary delay, give notice in writing or by telegraph of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurs, or to such other Magistrate and Police-officer as the Local Government from time to time appoints in this behalf.

7. Every Railway-Administration shall make up and deliver to the Governor General in Council a return of accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner,

Returns of accidents.

and at such intervals of time, as the Governor General in Council from time to time directs.

General rules
for working
Railway.

8. Every Railway-Administration shall make general rules for the following purposes (that is to say):

(a) for regulating the mode in which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled;

(b) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon;

(c) for regulating the provision to be made for the accommodation and convenience of passengers;

(d) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods; and

(e) generally for regulating the travelling upon, and the use, working and management of, the Railway;

and may, from time to time, alter any such rules.

Penalty for
breach of
rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

No such rule shall take effect unless it is consistent with this Act and until it has received the sanction of the Governor General in Council.

Notification
of rules.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-servants and the public in such manner as the Governor General in Council, from time to time, directs.

Power to
cancel rules.

The Governor General in Council may at any time cancel any such rule.

Copy and
translation
of Act, &c., to
be shown at
stations.

9. An abstract of this Act, and a copy of the Time-tables and Tariff of charges which may, from time to time, be published for any Railway by any Railway-Administration, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the principal vernacular language of the district in which the station is situate, and in such other language, if any, as the Governor General in Council may direct.

CHAPTER III.

CARRIAGE OF PROPERTY.

10. Every agreement purporting to limit the obligation or responsibility imposed on a carrier by Railway by the Indian Contract Act, 1872, sections 151 and 161, in the case of loss, destruction or deterioration of, or damage to, property shall, in so far as it purports to limit such obligation or responsibility, be void unless—

Special contract limiting liability.

(a) it is in writing signed by, or on behalf of, the person sending or delivering such property, and

(b) is otherwise in a form approved by the Governor General in Council.

11. When any property mentioned in the second schedule hereto annexed is contained in any parcel or package delivered to a carrier by Railway, the carrier shall not be liable for loss, destruction or deterioration of, or damage to, such property, unless at the time of delivery the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some Railway-servant specially authorized in this behalf.

No liability for loss of gold, silver, &c., unless value declared and increased charge accepted.

When any property of which the value and nature have been declared under this section has been lost, destroyed or damaged, or has deteriorated, the compensation recoverable for such loss, destruction, damage or deterioration shall not exceed the value so declared.

12. A carrier by Railway shall in no case be answerable for loss, destruction or deterioration of, or damage to, any passenger's luggage, unless a Railway-servant has booked and given a receipt for the same.

No liability for unbooked luggage.

Plaintiffs not required to prove negligence.

13. In any suit against a carrier by Railway for compensation for loss, destruction or deterioration of, or damage to, property delivered to a Railway-servant, it shall not be necessary for the plaintiff to prove in what manner such loss, destruction, deterioration or damage was caused.

Lien for money due for carriage, &c., of property.

14. If any person fails to pay on demand any sum due by him to a carrier by Railway for conveyance of any property by Railway, or for the custody of any property, or for demurrage or wharfage in respect of the same, the Railway-Administration may detain the whole or any part of such property, or, if the same have been removed from the Railway, any other property of such person then on such Railway or thereafter coming into the possession of the Railway-Administration ;

and may also sell by public auction, in the case of perishable property at once, and in the case of other property on the expiration of at least fifteen days' notice thereof published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the Local Government may, from time to time, direct, sufficient of such property to produce the sum payable as aforesaid, and all charges and expenses of such detention, notice and sale, or, if such person fails to remove from the Railway within a reasonable time any property so detained, the whole of such property ;

and may, out of the proceeds of the sale, retain the sum so payable, together with all charges and expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the property (if any) as remains unsold, to the person entitled thereto ;

or such carrier may recover any such sum by suit.

Written account of property to be given on demand.

15. The owner or person having the care of any property which has been carried upon any Railway, or is brought into any station or warehouse for the purpose of being carried upon a Railway, shall, on demand by any Railway-servant appointed in this behalf by the Railway Administration, deliver to him an exact account in writing signed by such owner or

person

person of the quantity and description of such property.

16. No passenger shall take with him on a Railway, and no person shall deliver or tender for carriage upon any Railway, any dangerous luggage or goods without giving notice of their nature to a Railway-servant, or, in the case of luggage or goods delivered or tendered for carriage, distinctly marking their nature on the outside of the package containing the same.

Dangerous goods.

Any Railway-servant may refuse to carry upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require such luggage or parcel to be opened to ascertain the fact previously to carrying the same ;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-servant may stop the transit thereof until he is satisfied as to the nature of its contents.

CHAPTER IV.

CARRIAGE OF PASSENGERS.

17. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying in English and the principal vernacular language of the district in which the ticket is issued, the class of carriage for which, and the place from and place to which, the fare has been paid, and the amount of such fare ;

Passengers on payment of fares to be furnished with tickets.

and every passenger shall, when required, show his ticket to any Railway-servant duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway-servant duly authorized to collect tickets.

Tickets to be shown and given up on demand.

18. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

Fares and tickets at intermediate stations.

In case there is not room for all the passengers to whom tickets have been furnished, those who have

Preferential right of ticket-holders.

obtained

obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

Proviso.

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government, who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket within a reasonable time after its issue, be entitled to have his fare at once refunded.

Fares to be prepaid.

19. Except with the permission of the Railway-Administration or of such officer as it appoints in this behalf, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

Power to remove persons suffering from infectious disease.

20. Any passenger found suffering from an infectious disease in a Railway-carriage or in any place on a Railway may, if his remaining in such carriage or place is likely to spread the infection of such disease, be removed from such carriage or place by any Railway-servant;

any passenger so removed who has paid his proper fare to or at the place at which he is so removed, shall be entitled, on returning his ticket, to have such fare refunded.

CHAPTER V.

OFFENCES AND PROCEDURE.

(A).—*Offences by the Railway-Administration.*

Penalty for opening railway in con-

21. Any Railway-Administration opening, in contravention of section five, any Railway, or any portion

or extension of, or addition to, a Railway, shall forfeit to Government the sum of one thousand rupees for every day during which the same continues open in contravention of that section.

contravention of section 5.

22. Any Railway-Administration omitting to give notice as required by section six, shall forfeit to Government the sum of one hundred rupees for every day during which such omission continues.

For omitting to report accident.

23. Any Railway-Administration failing to deliver any return mentioned in section seven within fourteen days after the same ought to be delivered, or to make or notify any rules as required by section eight, or to exhibit any abstract or copy mentioned in section nine in manner required by that section, shall forfeit to Government the sum of fifty rupees for every day during which such failure continues.

For not sending return of accidents or making rules under section 8, or exhibiting copy under section 9.

(B).—Offences by Railway-servants.

24. Any Station-master or other person omitting to give notice as required by section six, shall be punished with fine which may extend to fifty rupees.

For omitting to give notice of accident.

25. Any Railway-servant who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

For drunkenness or breach of duty.

or who negligently omits to perform his duty,

or who performs the same in an improper manner, shall be punished with fine which may extend to fifty rupees;

or if the duty in any of the cases aforesaid be such that the negligent omission or improper performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

26. If any Railway-servant in the discharge of his duty endangers the safety of any person—

For endangering the safety of persons.

(a) by disobeying any general rule sanctioned and published and notified in the manner prescribed by section eight; or

(b) by

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(c) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five hundred rupees, or with both.

For receiving
bribes.

27. Every Railway-servant shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

Amendment
of Penal
Code, section
161.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include any employer of a Railway-servant as such.

For compel-
ling passen-
gers to enter
carriages
already full.

28. Any Railway-servant who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

(C).—*Offences by Persons generally.*

For not giv-
ing account
of goods or
giving false
account.

29. Any person required under section fifteen to give an account of the quantity and description of any property who neglects or refuses to give such account,

or who wilfully gives a false account,

shall be punished with fine which may extend to five rupees for every maund (of 3,200 tolas) of such property; and such fine shall be in addition to any charge to which such property may be liable.

For taking
dangerous
goods on
Railway or
delivering
such goods
without
notice.

30. Whoever, in contravention of section sixteen, takes with him any dangerous goods on a Railway, or delivers or tenders any such goods for the purpose of being carried upon a Railway, shall be punished with fine which may extend to two hundred rupees.

For travel-
ling without
ticket or not

31. Any passenger travelling on a Railway with-
out a proper ticket or having such a ticket and not
showing

showing or delivering up the same when so required under section seventeen, shall be liable to pay the fare of the class in which he is found travelling, from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare of the class aforesaid only from the place whence he has travelled.

showing or delivering up ticket.

Every such fare shall, on application by a Railway-servant to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it were a fine, and shall, when recovered, be paid to the Railway-Administration.

32. Any person who defrauds, or attempts to defraud, any carrier by Railway—

For evading payment of fare.

(a) by travelling, or attempting to travel, on any Railway without having previously paid his fare ;

(b) by riding or attempting to ride in or on a carriage, or by a train, of a higher class than that for which he has paid his fare ;

(c) by using or attempting to use a ticket on any day for which such ticket is not available ;

(d) by continuing his journey in or upon any carriage beyond the place to which he has paid his fare, without previously paying the fare for the additional distance ;

or who, in any other manner whatever, attempts to evade the payment of his fare,

or who wilfully alters or defaces his ticket so as to render the date, number or other material portion thereof illegible,

For altering ticket.

shall be punished with fine which may extend to fifty rupees, and shall also be liable to pay the fare (if any) which he ought to have paid ; and such fare shall be recoverable in manner provided by section thirty-one and shall, when recovered, be paid to the Railway-Administration.

33. Any passenger who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such

For entering carriage in motion.

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carriage is in motion, shall be punished with fine which may extend to twenty rupees ;

For riding on the steps.

and any passenger who rides, or attempts to ride, on the steps, or any other part of a carriage, upon any Railway, except on those parts which are intended for the accommodation of passengers,

shall be punished with fine which may extend to fifty rupees.

For riding on engine, tender, &c.

34. Any person who, without the permission of the Railway-Administration, rides or attempts to ride upon any locomotive-engine or tender upon any Railway; or in or upon any vehicle not appropriated to the carriage of passengers,

shall be punished with fine which may extend to one hundred rupees.

For smoking.

35. Any person who, without the consent of his fellow-passengers, if any, in the same compartment, smokes in or upon any Railway-carriage, except in a carriage or compartment specially provided for the purpose, shall be punished with fine which may extend to twenty rupees ;

and any person who persists in so smoking (except as aforesaid) after being warned by any Railway-servant to desist may, in addition to incurring the liability above-mentioned, be removed by any Railway-servant from any such carriage, and from the premises of the Railway, and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

For intoxication or nuisance.

36. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway-carriage, or upon any part of any Railway ;

or who wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp in any Railway-carriage,

shall be punished with fine which may extend to fifty rupees ; and may be removed by any Railway-servant from any such carriage, and also from the premises of the Railway, and, where he has paid his fare

fare and obtained a ticket, shall forfeit such fare and ticket.

37. If any carriage, compartment, room or place be reserved by the Railway-Administration for the exclusive use of females, any male person who without lawful excuse enters such carriage, compartment, room or place knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

For entering carriage or room reserved for females.

and may be removed therefrom, and also from the premises of the Railway, by any Railway-servant,

and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

38. Whoever wilfully obstructs or impedes any Railway-servant in the discharge of his duty, shall be punished with fine which may extend to one hundred rupees.

For obstructing Railway-servant in his duty.

39. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

For entering carriage already full.

40. Any person who without authority or reasonable excuse makes, alters, shows, hides, removes or extinguishes any signal or light upon any Railway, or upon any engine, carriage, wagon or other vehicle upon a Railway,

For removing signals or injuring carriage, &c.

or who negligently damages any engine, carriage, wagon or other vehicle belonging to a Railway, or any warehouse, building, machine, fence or other thing so belonging,

or who needlessly interferes with the means of communication provided in any train between the guard and the engine-driver or passengers,

shall be punished with fine which may extend to one hundred rupees.

For trespass.

For refusing to leave on request.

41. Any person who unlawfully enters upon a Railway shall be punished with fine which may extend to twenty rupees; and if any person so entering refuses to leave such Railway on being requested to do so by any Railway-servant, or by any other person on behalf of the Railway-Administration, he shall be punished with fine which may extend to fifty rupees, and may be immediately removed from such Railway by such servant or other person as aforesaid.

For cattle-trespass within Railway-fences.

42. The owner or person in charge of any bulls, cows, bullocks, calves, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids straying on any Railway provided with fences suitable for the exclusion of such animals, shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle-Trespass Act, 1871.

For wilfully driving cattle on fenced Railway;

Whenever any such animals are wilfully and unlawfully driven, or knowingly and unlawfully permitted to be, on any Railway provided with fences suitable for the exclusion of such animals,

on unfenced Railway.

and whenever any such animals are wilfully driven, or knowingly permitted to be, on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway, or for any other lawful purpose,

the person in charge of such animals, or if he cannot be identified, then the owner of the said animals, shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

Recovery of fines and payment of compensation.

All fines imposed under this section may, if the convicting Magistrate so direct, be recovered in manner provided by section twenty-five of the said Cattle-Trespass Act, 1871, and may be appropriated in whole or in part in compensation for loss or damage proved to his satisfaction.

Amendment of Act 1 of 1871, ss. 11 and 26.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a Railway. And any Railway-servant may exercise

exercise the powers of seizure provided by the said section eleven.

43. Whoever knowing or having reason to believe that any engine or train is approaching along a Railway opens any gate which the Railway-Administration has set up on either side of the Railway across any road for the use or accommodation of any person, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal or other thing, across the Railway;

For opening or not properly shutting gates.

and whoever at any time, in the absence of a gate-keeper, omits to shut and fasten such gate as soon as he and any vehicle, animal or other thing under his charge have passed through the same,

shall be punished with fine which may extend to fifty rupees.

44. Whenever any minor under twelve years of age unlawfully—

For minors obstructing line or throwing stones at train.

(a) places or throws, or attempts to place or throw, upon or across a Railway any wood, stone or other thing, or

(b) removes or displaces, or attempts to remove or displace, any rail, sleeper, spike, key or other thing belonging to the permanent-way of a Railway, or

(c) throws or causes to fall, or attempts to throw or cause to fall, against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may, in his discretion, direct either that the minor, if a male, shall be punished with whipping, or that the father or guardian of the minor shall, within such reasonable time as the Magistrate may fix, execute a bond binding himself, in such penalty as the Magistrate may direct, to prevent the minor from repeating such offence.

The amount of such bond, if forfeited, shall be recoverable as if it were a fine.

Any person neglecting or refusing to execute a bond when required under this section so to do shall

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For wilful act or omission endangering persons on Railway.

45. Whoever wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, shall be punished with transportation (or in the case of an European or American, penal servitude) for a term of not less than seven years, or with imprisonment for a term which may extend to ten years.

For rash or negligent act.

46. Whoever rashly or negligently does any act, or omits to do what he is legally bound to do, and such act or omission is likely to endanger the safety of any person travelling or being upon a Railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Disobedience of omnibus, &c., drivers to Railway-servants.

47. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of a Railway, obey the reasonable directions of any Railway-servant duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

(D).—*Arrest of Offenders.*

Arrest for offences punishable under this Act of offender whose name is unknown, &c.

48. If any person commits any offence punishable under this Act and there is reason to believe that he will abscond, or his name and address are unknown and he refuses to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any Railway-servant or Police-officer, or any other person whom such Railway-servant or Police-officer may call to his aid, may, without any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

Arrest for offences against certain sections.

49. Every person committing any offence mentioned in sections eight, twenty-five, twenty-six, thirty-six, thirty-seven, thirty-eight, forty-four, forty-five and
forty-six

forty-six may be arrested without any warrant or written authority by any Railway-servant or Police-officer, or by any other person whom such servant or officer may call to his aid ;

and every person so arrested shall, without unnecessary delay, be taken before a Magistrate authorized to punish him or to commit him for trial.

(E).—Jurisdiction.

50. No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Magistrates having jurisdiction.

Any person committing any offence against this Act or the rules made under it, shall be triable for such offence in any place in which he may be found or which the Local Government may, from time to time, notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial.

Every notification under this section shall be published in the local official Gazette and a copy thereof shall also be exhibited in some conspicuous place at each of such Railway-stations as the Local Government may direct, so that it may be easily seen and read.

(F).—Saving of other Criminal Laws.

51. Nothing in this Act shall be deemed to prevent any person from being arrested, prosecuted or punished under any other law for any act or omission which constitutes an offence against this Act or the rules made under it :

Saving of prosecutions under other laws.

Provided that no person shall be punished twice for the same offence.

CHAPTER VI.

MISCELLANEOUS.

52. The Governor General in Council, or the Local Government with the previous sanction of the

Power of Government to make rules

Governor

as to fences,
gates and
bars.

Governor General in Council, may, from time to time, make rules requiring—

(a) that boundary-marks or fences be provided for any Railway or any part thereof, and for roads constructed in connection therewith;

(b) that gates or bars be erected at places where any Railway crosses a road on the level; and

(c) that persons be employed to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section forty-two, be deemed to be suitable for the exclusion of cattle,

and direct that any Railway-Administration wilfully neglecting or violating any rule made under this section, shall forfeit to Government a sum not exceeding five hundred rupees for every such neglect or violation, or, when such neglect or violation is continuous, for every day during which it continues.

Power to
declare Local
Government
in respect of
any Railway.

53. The Governor General in Council may from time to time, by notification in the *Gazette of India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

Power to
extend Act to
steam-tram-
ways.

54. The Governor General in Council may, by notification, extend this Act or any portion thereof to any tramway worked by steam.

THE FIRST SCHEDULE.

ACTS REPEALED.

(See section 2).

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

THE SECOND SCHEDULE.

(See section 11).

- (a) Gold or silver, coined or uncoined, manufactured or unmanufactured ;
- (b) plated articles ;
- (c) cloths and tissue and lace of which gold or silver forms part ;
- (d) precious stones, jewellery, trinkets ;
- (e) watches, clocks or time-pieces of any description ;
- (f) Government securities ;
- (g) Government stamps ;
- (h) bills of exchange, hundís, promissory notes, bank-notes, orders or other securities for payment of money ;
- (i) maps, writings, title-deeds ;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art ;
- (k) glass, china, marble ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace ;
- (o) opium ;
- (p) ivory, ebony, sandalwood, sandalwood-oil ;
- (q) musical and scientific instruments.



ACT No. V OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 22nd March
1879).

An Act to amend the Presidency Banks Act, 1876.

WHEREAS it is expedient to amend the Presidency Banks Act, 1876, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called "The Presidency Banks Act, 1879;" and it shall come into force on the first day of May, 1879.

2. To the first clause of section 28 of the Presidency Banks Act, 1876, the following proviso shall be added, that is to say:

"Provided that no person shall be chosen to be President or Vice-President twice in succession."

3. In the same Act, section 34, before the words "no Khazánchi," the words "without the previous sanction of the Board" shall be inserted.

4. In the same Act, section 36, clause (a), sub-clause (4), after the words "municipal body," the words "or any body of Commissioners for making improvements in any port or of trustees of any port" shall be inserted.

In the same section, the words "in the case of the Bank of Madras" shall be omitted in both the places in which they occur.

In the same section, after clause (m), the following clause shall be inserted, that is to say, "(m m) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise."

5. In

[Price one anna and three pies.]

Presidency Banks. [ACT V, 1879.]

Amendment
of section 37.

5. In section 37 of the same Act, for clause (d), the following shall be substituted, that is to say,

“(d) Nor shall they (except upon the security mentioned in section thirty-six, paragraph a, Nos. 1 to 5 inclusive)

“discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force, or

“lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed.”

Amendment
of section 63.

6. In section 63 of the same Act, clause (a), for the words “lent by discount of bills or otherwise to,” the words “lent to or for which bills may be discounted for” shall be substituted.

ACT No. VI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March, 1879).

An Act for the preservation of wild elephants.

WHEREAS it is expedient to provide for the preservation of wild elephants; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Elephants Preservation Act, 1879:" Short title.

It extends to the territories now respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg; Local extent.

and the Local Government may, with the previous sanction of the Governor General in Council, extend it to any other local area by notification in the local official Gazette.

So far as regards the power to make declarations and rules, it shall come into force on the passing thereof. In other respects it shall come into force on the first day of April, 1879. Commencement.

2. The words "kills or catches elephants," in section 25, clause (i), of the Indian Forest Act, 1878, and the words "killing or catching elephants," in section 31, clause (j), of the same Act, shall be repealed in every local area to which this Act extends or is extended. Repeal.

3. No person shall kill, injure or capture, or attempt to kill, injure or capture, any wild elephant unless— Killing and capture of wild elephants prohibited.

(a) in defence of himself or some other person;

(b) when

[Price one anna and six pies.]

(b) when such elephant is found injuring houses or cultivation, or upon, or in the immediate vicinity of, any main public road or any railway or canal; or

(c) as permitted by a license granted under this Act.

Rights of Government with respect to certain elephants and tusks.

4. Every elephant captured, and the tusks of every elephant killed, in any of the cases mentioned in section three, clauses (a) and (b), by any person not licensed under this Act, shall be the property of Government.

License to kill and capture wild elephants.

5. The Collector or Deputy Commissioner of any district may, subject to such rules as may for the time being be in force under this Act, grant licenses to kill, or to capture, or to kill and capture, wild elephants in such district :

Provided that no such license shall authorize any person to enter upon any land without the consent of the owner or occupier thereof.

Power of Local Government

6. The Local Government may from time to time, subject to the control of the Governor General in Council,

to declare what are main roads and canals, and to make rules as to licenses.

declare what shall be deemed to be main public roads and canals within the meaning of this Act, and

make rules consistent with this Act for regulating

(a) the grant and renewal of licenses under this Act,

(b) the fees (if any) in money, tusks or captured elephants to be charged on such grant and renewal,

(c) the time during which such licenses shall continue in force, and

(d) the conditions (if any) on which they shall be granted.

All such declarations and rules shall be published in the local official Gazette and shall thereupon have the force of law.

Penalty for contravening section 3.

7. Whoever, in contravention of section three, kills, injures or captures, or attempts to kill, injure or capture,

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capture, any wild elephant, shall be punished with fine which may extend to five hundred rupees for each elephant concerned;

and whoever breaks any condition contained in a license granted under this Act shall be punished with fine which may extend to five hundred rupees.

Any person convicted of a second offence under this section shall be punished with imprisonment which may extend to six months, or with fine, or with both.

When any person holding a license under this Act is convicted under this section, such license shall become void and shall be delivered up to the convicting Magistrate.

8. Any officer of Revenue or Police, or any forest-officer, who may find any person killing, injuring or capturing, or attempting to kill, injure or capture, any wild elephant, except in the cases mentioned in section three, clauses (a) and (b), may require him to produce and shew a license granted to him under this Act.

License to be produced and shewn on requisition of certain officers.

Any person who, on such request, wilfully refuses or is unable to produce and shew such license as aforesaid, shall, in addition to any other punishment to which he may be liable under this Act, be punished with fine which may extend to one hundred rupees.

9. Every prosecution under this Act shall be commenced within six months from the commission of the offence in respect of which it is instituted.

Limitation of prosecution.

10. The amount or value of any fee payable under any license granted under this Act may be recovered from the licensee as if it were an arrear of land-revenue.

Recovery of fees.

ACT No. VII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th May, 1879).

An Act to provide for the temporary appointment in the Panjáb of an Additional Financial Commissioner.

WHEREAS it is expedient to provide temporarily for the appointment of an Additional Financial Commissioner to assist the Financial Commissioner of the Panjáb; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Panjáb Additional Financial Commissioner's Act, 1879:"

Short title.

And it shall come into force at once.

Commencement.

2. The Lieutenant-Governor of the Panjáb may, from time to time, with the previous sanction of the Governor General in Council, appoint such person as the said Lieutenant-Governor thinks fit to be an Additional Financial Commissioner.

Appointment of Additional Financial Commissioner.

Every person so appointed shall hold his office during the pleasure of the Governor General in Council:

Provided that no such person shall be so appointed or continue in office after the thirtieth day of September, 1879.

3. Every Additional Financial Commissioner, appointed under section 2, shall hold his sittings at such place in the Panjáb as the said Lieutenant-Governor from time to time directs, and shall dispose of such revenue, judicial and other business, now or hereafter pending before the Financial Commissioner of the Panjáb, under any enactment for the time being in force, as the said Financial Commissioner may, from time

Business transferred by Financial Commissioner to be disposed of by Additional Financial Commissioner.

[Price one anna and three pies.]



Panjab Additional Financial Commr. [ACT VII, 1879.]

time to time, transfer to him for that purpose, and, in the disposal of such business, shall follow the same procedure and exercise the same powers as would be followed and exercised by the said Financial Commissioner in like cases.

Power to
withdraw
cases so trans-
ferred.

The said Financial Commissioner may at any time withdraw and himself dispose of any business transferred to the Additional Financial Commissioner under this section and not disposed of by him.

ACT VII, 1879.]

that purpose,
shall follow the
powers as
said Financial

at any time
business trans-
Commissioner
him.

ACT No. VIII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd May, 1879).

An Act to amend the North-Western Provinces Land-Revenue Act, 1873, and the North-Western Provinces Local Rates Act, 1878.

WHEREAS it is expedient to amend the North-Western Provinces Land-Revenue Act, 1873; Preamble.
It is hereby enacted as follows:—

1. This Act may be called "The North-Western Provinces Land-Revenue Act, 1879;" Short title.
and shall come into force at once. Commence-
ment.

This section and sections 28 and 29 extend to the whole of the territories for the time being under the administration of the Lieutenant-Governor of the North-Western Provinces. Local extent.

The whole of this Act extends to those portions of the said territories to which the whole of the said North-Western Provinces Land-Revenue Act, 1873, extends; and every provision of this Act amending any part of the said North-Western Provinces Land-Revenue Act, 1873, extends to all other portions of the said territories to which such part may have been, whether before or after the passing of this Act, extended.

2. To section 3, clause (1), of the said North-Western Provinces Land-Revenue Act, 1873, the following shall be added:— Addition
to section 3,
clause 1, of
Act XIX of
1873.

"and (c), for such purposes as the Local Government may from time to time determine, any grant of land made heretofore or hereafter under the wasteland rules for the time being in force."

3. In

[Delete two lines and six pages]

Amendment
of same Act,
section 23.
New section
substituted
for section 29
of same Act.
Patwáris'
fund.

3. In section 23 of the same Act, for the word "villages," the word "maháls" shall be substituted.

4. For section 29 of the same Act, the following shall be substituted :—

" 29. A rate may be imposed by order of the Board on the annual value or on the cultivated area of all maháls, or partly on one and partly on the other, for the purpose of defraying the salaries of patwáris and any charges incurred for the proper supervision, maintenance and correction of patwáris' records.

" The proceeds of such rate shall be credited to a provincial fund, and shall be applied to the said purpose in such manner as the Board, subject to the orders of the Local Government, may from time to time direct.

" The Local Government may from time to time, by rules published in the local official Gazette, declare the circumstances under which a landlord shall be entitled to recover from tenants holding rent-free, or at fixed or beneficial rates, the whole or any specified part of the rate imposed under this section.

" *Explanation.*—Charges incurred in the preparation of village-maps shall be deemed to be charges within the meaning of this section."

New proviso
substituted
for proviso to
section 30 of
same Act.

5. For the proviso to section 30 of the same Act, the following shall be substituted :—

" Such rate shall not exceed three per cent. on the annual value of the rated mahál ; and the amount to be imposed on each mahál shall be fixed, in temporarily settled districts for the term of settlement, and in permanently settled districts for thirty years, or such shorter period as the Local Government may from time to time direct :

" Provided that the rate or sum hitherto paid (whatever its amount may be) by the proprietors of any mahál on account of the patwáris' salaries or expenses shall, if the Local Government so directs, be deemed to be the rate imposed under this Act."

Amendment
of section 44
of same Act.

6. In section 44 of the same Act, for the word "elected," the word "selected" shall be substituted ;
and

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the word substituted; and

and to the same section the words "such representa- tives shall be called lambardárs" shall be added.

7. In section 65 of the same Act, for clauses (d) and (e), the following shall be substituted:—

Amendment of section 65 of same Act.

"(d) as to any other matters which he may be directed to record under rules framed under section 257.

"The Settlement-officer may, subject to rules to be made from time to time by the Board, with the previous sanction of the Local Government, fix and shall record—

"(e) the amounts of instalments of rent and the respective dates for their payment;

"(f) the dates for the payment of any amounts payable by inferior to superior proprietors under section 54, clause (1); and

"(g) the dates on which profits shall be divisible by lambardárs."

8. In section 66 of the same Act, for the second clause, the following shall be substituted:—

Amendment of section 66 of same Act.

"A list of all other cesses levied in accordance with village-custom, and generally or specially sanctioned by the Local Government, shall be made by the Settlement-officer. And, save as provided by any other enactment for the time being in force, no cesses not comprised in such list shall be enforced in any Civil or Revenue Court, and no such list shall be altered or added to during the currency of a settlement."

List of cesses to be made.

And to the same section, the following shall be added:—

"While any local area is under settlement, the Governor General in Council may, from time to time, in case of doubt, declare what shall be deemed to be a cess within the meaning of this section."

Power of Governor General in Council to declare what shall be deemed to be a cess.

9. To section 74 of the same Act, the following shall be added:—

Addition to section 74 of same Act.

"Provided that the Local Government may empower any Settlement-officer, when any such appli- cation

cation made before him is opposed, to refuse, for reasons to be recorded by him in writing, to grant the same."

Amendment of section 95 of same Act.

10. In section 95 of the same Act, for the words "no such changes," the words "no such change or other thing affecting proprietary rights or interests" shall be substituted.

Addition to section 141 of same Act.

11. To section 141 of the same Act, the following shall be added :—

"*Explanation.*—'Owners' in this and the following sections of this chapter include also a lessee, mortgagee or other person in possession of the land referred to."

Addition to section 146 of same Act.

12. To section 146 of the same Act, the following shall be added :—

"*Explanation.*—'Proprietor' in this chapter includes also a farmer and a mortgagee in possession."

Amendment of section 156 of same Act.

13. In section 156 of the same Act, for the word "proprietor," the words "defaulter or his legal representative" shall be substituted.

New section substituted for section 157 of same Act.

14. For section 157 of the same Act, the following shall be substituted :—

Transfer of defaulter's share to co-sharers.

"157. When the arrear is due in respect of a share or pattí of a mahál, the Collector of the district may, with the previous sanction of the Commissioner of the Division, in cases where the annual revenue payable in respect of such share or pattí does not exceed fifty rupees, and in other cases with the previous sanction of the Board, transfer such share or pattí, for a term not exceeding fifteen years from the first day of July next after the date of the sanction, to any or all of the other co-sharers, on condition of their paying such arrear and on such terms as the Commissioner or Board (as the case may be) in each case may think fit.

"The Commissioner shall, without unnecessary delay, report to the Board every transfer sanctioned by him under this section, and the Board may thereupon set aside such transfer or alter the terms of the same, or pass such other order as it thinks fit.

"A transfer

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"A transfer under this section shall not affect the joint and several liability of the co-sharers of the mahál in which it is enforced."

15. To section 165 of the same Act, the following shall be added :—

Addition to section 165 of same Act.

"for the remainder of the term of the settlement of the district, or for any period within such term as the Board may fix."

16. To section 172 of the same Act, the following shall be added :—

Addition to section 172 of same Act.

"No officer having any duty to perform in connection with any such sale, and no person employed by or subordinate to such officer, shall, either directly or indirectly, bid for, acquire or attempt to acquire, except on behalf of the Government or the Court of Wards, the property sold or any interest therein."

17. To section 189 of the same Act, the following shall be added :—

Addition to section 189 of same Act.

"No protest under this section shall be of any effect unless it is made at the time of payment in writing and signed by the person making the same, or by an agent duly authorized in his behalf."

18. In section 193 of the same Act, for the word "lands," the word "property" shall be substituted.

Amendment of section 193 of same Act.

19. In section 194 of the same Act, for the word "lands," the word "property," and for clause (e) the following, shall be substituted :—

Amendment of section 194 of same Act.

"(e) persons declared by the Local Government incapable, owing to physical defects and infirmities, to manage their own estates."

20. In section 195 of the same Act, for the proviso, the following shall be substituted :—

New proviso substituted for proviso in section 195 of same Act.

"Provided that, if the person or property of any disqualified proprietor mentioned in section 194, clause (b), clause (c) or clause (d), has been placed under the charge of the Collector, or under the superintendence of the Court of Wards, by any Civil Court, it shall not be released without the concurrence of such Court :

"Provided

“ Provided also that the property of a proprietor who has been held disqualified under the same section, clause (a), clause (e), clause (f) or clause (g), shall not be released from the superintendence of the Court of Wards without the previous sanction of the Local Government.”

Amendment of section 200 of same Act.

21. In section 200 of the same Act, after the word “ may,” the following shall be inserted :—

“ from time to time determine what sums shall be allowed in respect of the expenses of any person whose property is under its superintendence, and.”

Amendment of section 203 of same Act.

22. In section 203 of the same Act, before the words “ any part,” the words “ the whole or ” shall be inserted.

New section substituted for section 205 of same Act.

23. For section 205 of the same Act, the following shall be substituted :—

Suits by and against disqualified proprietors in Civil Courts.

“ 205. All disqualified proprietors whose property is in charge of the Court of Wards, and for whom guardians have been appointed, shall sue and be sued in Civil Courts by and in the name of their guardians :

“ Provided that no such suit shall be instituted, defended, compromised or otherwise dealt with by any such guardian without the previous sanction of the Court of Wards.

“ Disqualified proprietors, whose property is in charge of the Court of Wards, and for whom guardians have not been appointed, shall sue and be sued in Civil Courts by and in the name of the Collector of the district in which the suit is brought.”

New sections to follow section 205 of same Act. Suits and proceedings in Revenue Courts.

24. After section 205 of the same Act, the following sections shall be inserted :—

“ 205A. A Manager appointed by the Court of Wards may, subject to the control of the Collector, institute, defend, compromise or otherwise deal with suits, applications or other proceedings in Revenue Courts relating to the property entrusted to him.

Disability of disqualified proprietors.

“ 205B. Persons whose property is under the superintendence of the Court of Wards shall not be competent

competent to create, without the sanction of the Court, any charge upon, or interest in, such property or any part thereof.

“And no such property shall be liable to be taken in execution of a decree made in respect of any contract entered into by any such person while his property is under such superintendence.”

25. In section 212 of the same Act, after the word “suit,” the words “or other proceeding” shall be inserted.

Amendment of section 212 of same Act.

26. In section 235, clause (20), of the same Act, for the word “rent” where it first occurs, the word “limits” shall be substituted.

Amendment of section 235 of same Act.

27. In section 257 of the same Act, after clause (e), the following clause shall be inserted:—

Addition to section 257 of same Act.

“(ee) regulating the appointment, dismissal and duties of lambar্দárs.”

AND whereas it is also expedient to amend the North-Western Provinces Local Rates Act, 1878; It is hereby further enacted as follows;—

28. In section 3 of the said North-Western Provinces Local Rates Act, for the definition of “tenant,” the following shall be substituted:—

Definition of “tenant” in section 3 of Act III of 1878.

“‘Tenant’ used in reference to any land, means a tenant holding directly from the landlord of such land and also includes an under-proprietor of such land, and a person bound to pay or deliver anything to such landlord in respect of the use and occupation of such land.”

29. In section 16 of the same Act, shall be substituted—

Amendment of section 16 of same Act.

(a) for the words and figures “twenty-three of Act No. X of 1859, and in section one of Act No. XIV of 1863,” the words and figures “ninety-three of the North-Western Provinces Rent Act, 1873;” and

(b) for the words and figures “Act No. X of 1859 and Act No. XIV of 1863,” the words and figures “the North-Western Provinces Rent Act, 1873.”

ACT NO. IX OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd May, 1879).

An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No. XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows:—

Preamble.

Preliminary.

1. This Act may be called "The Burma Coast-lights Act, 1879":

Short title.

It shall come into force on the first day of July, 1879;

Commencement.

and it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma and the Andaman and Nicobar Islands.

Local extent.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

2. Act No. XIII of 1867 (*to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed.

Repeal.

But

[Price one anna and three pies.]

But any appointment made under the said Act shall be deemed to have been made under this Act.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

Customs-Collector.

“Customs-Collector” means a Customs-Collector appointed under the Sea Customs Act, 1878, and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port :

“Vessel.”

“Vessel” includes anything made for the conveyance by water of human beings or of property :

“Master.”

“Master,” when used in relation to any vessel, means any person (except a Pilot or Harbour-Master) having, for the time being, the charge or control of such vessel :

“Voyage.”

“Voyage” means the whole distance between a vessel’s place of departure and her final place of arrival ; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Coast-light Dues.

Coast-light dues payable in respect of vessels of fifty tons.

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called “coast-light dues,” shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden :

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable.

5. The said coast-light dues shall become due and payable—

(a) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance ;

(b) in

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Customs-Collector
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(b) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port :

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

6. The Governor General in Council may from time to time, by notification in the *Gazette of India*, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels :

Power to vary rates of dues.

Provided that such rate shall not in any case exceed the rate fixed by section four.

Proviso.

7. The Customs-Collector shall collect the coast-light dues,

Collection of dues.

and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

Voucher to be given.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector.

Master to report arrival.

9. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed :—

Tonnage of vessel chargeable with coast-light dues how ascertained.

(a) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the

If registered.

true

true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained ; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

If not registered.

(b) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained ; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.

On refusal to pay dues or expenses, the Collector may distrain and sell.

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid ;

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.

No port-clearance to be granted until dues, &c., are paid.

11. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her master or some other person

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person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound.

Master to specify on demand voyage on which vessel is bound.

13. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Penalty for evading payment of dues, &c.

Determination of Disputes under Act.

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class. All decisions under this section shall be final.

Magistrate to decide disputes.

Prosecutions under other Laws.

15. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act: provided that no person shall be punished twice for the same act or omission.

Saving of prosecutions under other laws.

Statement of Receipts and Expenditure.

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the *Gazette of India* a statement showing the amount

Statement of receipts and expenditure to be published.

amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

AND whereas it is also expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby further enacted as follows:—

Amendment
of Indian
Ports Act,
1875.

17. For section 77 of the same Act, the following shall be substituted:—

Application
of Maulmain
and Bassein
port-dues.

“77. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of British Burma.”

SCHEDULE.

(See section 4).

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—
 - (a) from or to any port in British Burma; or
 - (b) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma.
2. A voyage to or from any port in British Burma—
 - from or to any other port in British Burma,except voyages to or from Maulmain, from or to Tavoy or Mergui, or to or from Tavoy, from or to Mergui.
3. A voyage to or from Rangoon and any port in British Burma west of the longitude of Rangoon—
 - from or to any place east of the longitude of Mergui.
4. A voyage to or from any port in British Burma other than Tavoy and Mergui—
 - from or to any port in the Andaman and Nicobar Islands.

[ACT IX, 1879.]

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ACT No. X OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd May, 1879).

An Act to provide for the recovery of certain advances made to Landholders.

WHEREAS it is expedient to provide for the recovery of certain advances made in the territories respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Panjáb and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer, for certain purposes other than those specified in the Land Improvement Act, 1871; It is hereby enacted as follows:—

Preamble.

1. This Act may be called “The Northern India Takkávi Act, 1879;”

Short title.

and shall come into force on the first day of July, 1879.

Commencement.

2. On and from that day, the fifty-second section added to the Panjáb Laws Act, 1872, by Act No. XII of 1878 (*An Act for the further amendment of the Panjáb Laws Act, 1872*), shall, except as to advances made before that day, be repealed.

Act IV of 1872, section 52, repealed.

3. The Local Government may from time to time, with the previous sanction of the Governor General in Council, prescribe rules as to advances to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Act, 1871, but connected with agricultural objects.

Recovery of certain takkávi advances.

All such rules shall be published in the local official Gazette.

Every

[Price one anna and three pies.]

Northern India Takkávi. [ACT X, 1879.]

Every advance made in accordance with such rules, shall, when it becomes due, be recoverable from the person to whom it was made, or from any person who has become surety for the repayment thereof, as if it was an arrear of land-revenue due by the person to whom the advance was made or by his surety.

कावि. [ACT X, 1879.]

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ACT No. XI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st July, 1879).

The Local Authorities Loan Act, 1879.

WHEREAS it is expedient to re-enact the Local Preamble.
Public Works Loan Act, 1871, with the amend-
ments hereinafter appearing; It is hereby enacted as
follows:—

1. This Act may be called "The Local Authorities Short title.
Loan Act, 1879:"

It extends to the whole of British India, and shall Local extent.
come into force upon the passing thereof. Commence-
ment.

2. The Local Public Works Loan Act, 1871, is Repeal of Act
hereby repealed. But all applications, declarations, XXIV of
authorizations, attachments, loans and rules made 1871.
under the said Act shall be deemed to have been made
under this Act.

3. In this Act, "local authority" means any body "Local
corporate, municipal committee, or other persons authority."
legally entitled to the control or management of any
local or municipal fund, or legally entitled to impose
any cess, rate, duty or tax upon any persons within
any local area; and

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ity, includes any local or municipal fund to the con-
trol or management of which such authority is legally
entitled, and any cess, rate, duty or tax which such
authority is legally entitled to impose, and any pro-
perty vested in such authority.

4. Any local authority desiring to obtain a loan, Loans for
on the security of its funds or any portion thereof, works may
for the carrying out of any works which it is legally be granted on
security of
funds.
authorized

[Price one anna and nine pies.]

authorized to carry out may, in manner provided by the rules made by the Governor General in Council under the power hereinafter conferred, apply to the Local Government for such loan.

Power to Governor General in Council to make rules.

5. The Governor General in Council may from time to time make rules consistent with this Act as to—

(1) the nature of the funds on the security of which loans may be made;

(2) the works for which loans may be made;

(3) the manner of making applications for loans;

(4) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;

(5) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;

(6) the cases in which the Local Government may make loans without the previous sanction of the Governor General in Council, and the cases in which such previous sanction must be obtained;

(7) the manner of recording and enforcing the conditions on which such loans are to be made;

(8) the manner and time of making loans;

(9) the inspection of any works carried out by means of loans;

(10) the instalments by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon;

(11) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan;

(12) the attachment of such securities, and the manner of disposing of or collecting them;

(13) the accounts to be kept in respect of loans, and as to all other matters incidental to carrying this Act into effect.

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All such rules shall be published in the *Gazette of India*.

6. If any loan made under such rules, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by the Local Government shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings:

Remedy by attachment if loan not repaid.

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

Attachment not to defeat prior charges legally made.

7. The Local Government, with the previous sanction of the Governor General in Council, may authorize any local authority which might, under the provisions hereinbefore contained, have borrowed money for any work upon the security of its funds, to borrow money from any other person for such work upon such security; and, if any such loan or the interest thereon is not duly paid, the Local Government shall, upon the application of the lender, attach such funds for his benefit in manner provided by section six.

Local Government may authorize parties to borrow from private persons under this Act.

The Governor General in Council may, in respect of loans to be taken under this section, exercise the power conferred by section five, so far as the same may be applicable to the case of such loans.

Power to make rules in regard to such loans.

8. Except as provided by this Act and the rules made hereunder, no local authority shall for any purpose borrow money upon or otherwise charge its funds;

Loans not to be effected except under this Act.

Local Authorities Loan. [ACT XI, 1879.]

funds; and any contract otherwise made for that purpose after the passing of this Act shall be void:

Provided that nothing herein contained shall be deemed—

(a) to preclude the Municipality of Calcutta, Madras or Bombay, or the Trustees of the Port of Bombay, or the Commissioners for making improvements in the Port of Calcutta, or any like body hereafter created for the Port of Madras, from exercising the borrowing powers conferred on them by any special enactment now or hereafter in force; or

(b) to preclude any other local authority from exercising the borrowing power (if any) conferred on it by any such enactment with a view to raising money for any purpose other than the carrying out of works.

Application
of Act to
loans existing
previous to
the fifth of
September,
1871.

9. The Secretary of State in Council shall be entitled to the remedy mentioned in section six for the recovery of any money lent by him to any local authority before the fifth day of September, 1871, and the interest due on such money; and the Governor General in Council or the Local Government may declare that any person who before the said fifth day of September, 1871, has lent money to any local authority shall be entitled to the said remedy for the recovery of such money, or of the interest due thereon.

[ACT XI, 1879.]

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ACT No. XII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th July, 1879).

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

WHEREAS it is expedient to amend the Code of Civil Procedure; It is hereby enacted as follows:—

Preamble.

1. The following portions of the said Code shall be repealed (namely):—

Repeal of certain portions of Act X of 1877.

In section 4, the words and figures "The Panjáb Courts Act, 1865", and "The Panjáb Appeals Act, 1873:"

In section 5, the third sentence:

In section 51, the words "with the permission of the Court,":

In section 52, from and including the words "and when he makes it out of Court" to the end:

In section 61, the words "bill of exchange or other":

In section 64, the words "or as soon thereafter as may be practicable":

In section 80, the words "or to receive the copy of the summons":

In section 97, the words "a duly authorized":

In sections 113 and 177, the word "other":

In section 115, the second paragraph:

In section 131, the words "in whose plaint, written statement or affidavits reference is made to any document,"

[Price nine annas and three pice.]

Civil Procedure Code Amendment. [ACT XII

ment," and the words "in the presence of such officer as the Court appoints in this behalf," :

In section 199, the words from and including "and in" to the end :

In section 221, the second paragraph :

In section 224, the word "therewith" :

In section 230, paragraphs three and four, the words "unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction. And no such subsequent application shall be granted" :

In section 246, clause (e) and the letters and parentheses (f) and (g) :

In section 259, the words "and keeping the same under attachment until the further order of the Court" :

In section 339, paragraph three, the words "to the proper officer of the Court" :

In section 353, the words "within three months from its publication," and "within three months from the publication of the schedule" :

In section 355, paragraph two, the words "from arrest or imprisonment, as the case may be" :

In sections 407 and 408, the words "upon such examination" :

In section 638, the figures "261" :

In the second schedule, the words and figures "section 648 (so far as relates to arrests)" :

In the fourth schedule, No. 152, the words "ON SECURITIES BEING GIVEN", and "on security to the amount of Rs. decreed to the above suit, being given to your satisfaction" in the

Amendment
of section 2.

2. In section 2, for the definitions of "judgment" and "decree," the following shall be substituted (namely) :-

"decree"

1879.] *Civil Procedure Code Amendment.*

“‘decree’ means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244 but not specified in section 588, is within this definition: an order specified in section 588 is not within this definition.”

“‘order’ means the formal expression of any decision of a Civil Court which is not a decree as above defined.”

“‘judgment’ means the statement given by the Judge of the grounds of a decree or order.”

In the same section, to the definition of “signed”, the following words shall be added (namely): “it also includes stamped with the name of the person referred to”.

3. In section 3, for the last paragraph, the following shall be substituted (namely):— Amendment of section 3.

“Save as provided by section 99 A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of October, 1877, or any proceedings after decree that may have been commenced and were still pending at that date.”

4. In section 4, for the words “local law” in each of the places where they occur, the words “law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council” shall be substituted; and for the words “landlord and tenant,” the words “landholders and their tenants or agents” shall be substituted. Amendment of section 4.

Act No. XVIII of 1878 (*to amend the Code of Civil Procedure, section 4*) is hereby repealed.

5. In section 5, to the first sentence, the following shall be added (namely): “and to all other Courts (other than the Courts of Small Causes in the towns Amendment of section 5.

of

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Civil Procedure Code Amendment. [ACT XII

of Calcutta, Madras and Bombay) exercising the jurisdiction of a Court of Small Causes."

Amendment
of section 13.

6. In section 13, for the first paragraph, the following shall be substituted (namely) :—

"13. No Court shall try any suit or issue in which the matter directly and substantially in issue, having been directly and substantially in issue in a former suit in a Court of competent jurisdiction, between the same parties, or between parties under whom they or any of them claim, litigating under the same title, has been heard and finally decided by such Court";

and in the same section, *Explanation I*, for the word "confessed," the word "admitted" shall be substituted.

Amendment
of section 43.

7. In section 43, paragraph one, for the words "arising out of", the words "which the plaintiff is entitled to make in respect of" shall be substituted: in the same section, paragraph two, for the word "for" (in each of the places where it occurs), the words "in respect of" shall be substituted; and in the same section, paragraph three, for the word "claim," the words "cause of action" shall be substituted;

and to the same section the following paragraph shall be added:

"For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action."

Amendment
of section 44.

8. To section 44 the following words shall be added (namely): "or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents."

Amendment
of section 45.

9. In section 45, for paragraph one, the following shall be substituted (namely): "Subject to the rules contained in chapter II and in section 44, the plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit":

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in the same section, paragraph two, for the words
"the defendant," the words "any defendant, or at
any subsequent stage of the suit, if the parties agree"
shall be substituted.

10. In section 50, for the word "abode" in each
of the places where it occurs, the word "residence"
shall be substituted.

Amendment
of section 50.

11. To section 51 the following proviso shall be
added (namely):—

Amendment
of section 51.

"Provided that, if the plaintiff, by reason of
absence or for other good cause, is unable to sign the
plaint, it may be signed by any person duly authorized
by him in this behalf".

12. In sections 51, 53, 115, 346, 393 and 403, for
the word "subscribed" (wherever it occurs), the word
"signed" shall be substituted: in sections 115 and
346, for the word "subscribing", the word "signing"
shall be substituted; and in section 403, for the word
"subscription", the word "signing" shall be substi-
tuted.

Amendment
of sundry
sections.

13. In section 58, for the word "filed", the word
"produced" shall be substituted.

Amendment
of section 58.

14. In section 68, for the word "cognizable", the
word "heard" shall be substituted.

Amendment
of section 68.

15. In section 93, after the word "levied", and
in section 95, after the word "paid", and in section
397, after the word "be", the words "within a time
to be fixed by the Court" shall be inserted.

Amendment
of sections
93, 95 and
397.

16. After section 99, the following shall be in-
serted (namely):—

Addition to
section 99.

"99 A. If, after a summons has, whether before
or after the first day of October, 1877, been issued to
the defendant, or to one of several defendants, and
returned unserved, the plaintiff fails for a period of
one year from such return to apply for the issue of a
fresh summons and to satisfy the Court that he has
used his best endeavours to discover the residence of
the defendant who has not been served, or that such
defendant is avoiding service of process, the Court
may dismiss the suit as against such defendant.

Dismissal of
suit where
plaintiff, after
summons
returned un-
served, fails
for a year to
apply for
fresh sum-
mons.

Civil Procedure Code Amendment. [ACT XII

"In such case the plaintiff may (subject to the law of limitation) bring a fresh suit".

Amendment
of section
108.

17. In section 108, paragraph one, the words and figures "under section 100" shall be omitted; and in the same section, paragraph two, for the words "it be proved to the satisfaction of the Court that the defendant", the words "he satisfies the Court that the summons was not duly served, or that he" shall be substituted.

Amendment
of section
131.

18. In section 131, paragraph one, for the word "Every", the word "Any" shall be substituted, and for the words "such document", the words "any specified document" shall be substituted.

Amendment
of section
136.

19. In section 136, after the word "discovery" (in each of the places in which it occurs), the word "production" shall be inserted.

Amendment
of section
139.

20. In section 139, for the words and figures "the production of which has been called for under section 138 and which has not been produced," the words and figures "which should have been, but has not been, produced in accordance with the requirements of section 138" shall be substituted.

Amendment
of section
207.

21. In section 207, for the words "or numbers" to the end, the following words shall be substituted (namely): "or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers."

Amendment
of sections
211 and 212.

22. In section 211, for the words "land or other", the words "the recovery of possession of immovable" shall be substituted: to the same section the words "together with interest on such profits" shall be added; and in section 212, before the word "immovable," the words "the recovery of possession of" shall be inserted.

Addition to
section 215.

23. After section 215, the following section shall be inserted (namely):—

Suit for
account be-
tween princi-
pal and
agent.

"215A. When a suit is for an account of pecuniary transactions between a principal and agent, and in all other suits not hereinbefore provided for, where it is necessary, in order to ascertain the amount of

money

money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit."

24. To section 220 the following words shall be added (namely): "Every order relating to costs made under this Code and not forming part of a decree may be executed as if it were a decree for money." Amendment of section 220.

25. In section 223, clause (c), for the words "district within which", the words "local limits of the jurisdiction of" shall be substituted; and in the penultimate paragraph of the same section, for the words "local Court of Small Causes", the words "Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be," shall be substituted. Amendment of section 223.

26. In section 229, for the words "Native Prince or State in India," the words "Foreign Prince or State," shall be substituted. Amendment of section 229.

27. In section 230, clause (b), for the words "the payment of money or the delivery of property by instalments,—the date of the default in paying or delivering the instalment", the following words shall be substituted (namely): "any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property". Amendment of section 230.

28. In the second proviso to section 232, after the word "decree", the words "for money" shall be inserted. Amendment of section 232.

29. In section 235, for the words "in manner hereinbefore provided for the verification of plaints," the following words shall be substituted (namely): "by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case". Amendment of section 235.

30. In sections 236 and 237, for the words "If the application be", the words "Whenever an application is made" shall be substituted. Amendment of sections 236 and 237.

31. In section 244, clause (c), after the word "execution", the words "discharge or satisfaction" shall be inserted. Amendment of section 244.

Amendment
of section
245.

32. In section 245, for the first sentence, the following shall be substituted (namely): "The Court, on receiving an application for the execution of a decree, shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected."

Amendment
of section
246.

33. In section 246, for *Explanation I*, the following shall be substituted (namely):—

"*Explanation I.*—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court."

In *Explanation II*, after the words "assignor as", the words "in respect of judgment-debts due" shall be inserted.

Amendment
of section
252.

34. In section 252, for the words "If no such property can be found, and the judgment-debtor", the words "If no such property remains in the possession of the judgment-debtor, and he" shall be substituted.

Addition to
section 257.

35. After section 257, the following shall be inserted:—

Agreement to
give time to
judgment-
debtor.

"257A. Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree, and such Court deems the consideration to be under the circumstances reasonable.

Agreement
for satisfac-
tion of judg-
ment-debt.

"Every agreement for the satisfaction of a judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due or to accrue due under the decree, shall be void unless it is made with the like sanction.

"Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment-debt: and the surplus, if any, shall be recoverable by the judgment-debtor."

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36. For section 258, the following shall be substituted:—

Amendment
of section
258.
Payment to
decree-holder.

"258. If any money payable under a decree is paid out of court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or if any payment is made in pursuance of an agreement of the nature mentioned in section 257A, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree.

"The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

"No such payment or adjustment shall be recognized by any Court unless it has been certified as aforesaid."

37. For the second paragraph of section 259, the following shall be substituted:—

Amendment
of section
259.

"When any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation, as it thinks fit, and shall pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease to exist."

Civil Procedure Code Amendment. [ACT XII

Amendment
of section
260.

38. In section 260, in the first paragraph, after the words "the performance of", the words "or abstention from" shall be inserted; and for the second paragraph, the following paragraphs shall be substituted (namely):—

"When any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of one year from the date of the attachment, no application to have the property sold has been made and granted, the attachment shall cease to exist."

Amendment
of section
264.

39. In section 264, after the words "the same," the words "and not bound by the decree to relinquish such occupancy" shall be inserted.

Amendment
of section
265.

40. To section 265 the following words shall be added (namely): "and according to the law, if any, for the time being in force for the partition, or the separate possession of shares, of such estates".

Amendment
of section
268.

41. For the last paragraph of section 268, the following shall be substituted (namely):—

"In the case of the salary of a public officer or the servant of a Railway Company, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

"A copy of every such order shall be fixed up in a conspicuous part of the court-house and shall be served on the officer so required.

"Every such officer may from time to time pay into court any portion so withheld, and such payment shall discharge the Government or the Railway Company.

1879.] *Civil Procedure Code Amendment.*

pany, as the case may be, as effectually as payment to the judgment-debtor."

42. For the first paragraph of section 271, the following shall be substituted:—

Amendment of section 271.

"271. No person executing any process under this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise, or shall break open any outer door of a dwelling-house. But when any such person has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe any such property to be."

Seizure of property in building.

43. To section 289, paragraph one, the following words shall be added (namely): "and a copy thereof shall be fixed up in the court-house and, in the case of land paying revenue to Government, also in the Collector's office"; and in section 290, for the words "notification has been affixed", the words "copy of the proclamation has been fixed up" shall be substituted.

Amendment of sections 289 and 290.

44. In section 291, for the first eight words, the following shall be substituted (namely): "The Court may in its discretion adjourn any sale under this chapter (other than a sale by the Collector) to a specified day and hour, and the officer conducting any such sale"; and in the same section, after the proviso, the following sentence shall be inserted (namely): "Whenever a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it."

Amendment of section 291.

45. To section 294 the following paragraph shall be added (namely):—

Amendment of section 294.

"When a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person interested in the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder."

46. In

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Civil Procedure Code Amendment. [ACT XII

Amendment
of section
295.

46. In section 295, first proviso, after the words "shall not", the words "as such" shall be inserted; and after the second proviso, the following shall be inserted:—

Third proviso
to section 295.

"Provided also that, when immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

first, in defraying the expenses of the sale;

secondly, in discharging the interest and principal-money due on the incumbrance;

thirdly, in discharging the interest and principal-moneys due on subsequent incumbrances (if any); and

fourthly, rateably among the holders of decrees for money against the judgment-debtor, who have, prior to the sale of the said property, applied to the Court which made the decree ordering such sale for execution of such decrees and have not obtained satisfaction thereof."

Amendment
of section
305.

47. In section 305, paragraph two, after the word "therein," the words and figures "and notwithstanding anything contained in section 276" shall be inserted; and for the last paragraph, the following shall be substituted (namely):—

"Provided also that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court."

Amendment
of section
314.

48. In section 314, after the word "property", the words "in execution of a decree" shall be inserted.

Amendment
of section
316.

49. For section 316, the following shall be substituted (namely):—

Certificate to
purchaser of
immoveable
property.

"316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall

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vest in the purchaser from the date of such certificate and not before: provided that the decree under which the sale took place was still subsisting at that date."

50. In section 320, paragraph two, after the word "also", the words "notwithstanding anything herebefore contained," shall be inserted; and for sections 321 to 325, both inclusive, the following shall be substituted (namely):—

Amendment of sections 320 to 325.

"321. When the execution of a decree has been so transferred, the Collector may—

Power of Collector when execution of decree is so transferred.

(a) proceed as the Court would proceed under section 305; or

(b) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or

(c) sell the property ordered to be sold or so much thereof as may be necessary."

"322. When the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector, if, after such enquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, may proceed as hereinafter provided."

Procedure of Collector when execution of decree so transferred.

"322A. In the case mentioned in section 322, the Collector shall publish a notice calling upon—

Notice to be given to decree-holders and to persons having claims on the property.

(a) every person holding a decree for money against the judgment-debtor capable of execution by sale of his immoveable property, and which such decreeholder desires to have so executed, and every holder of a decree for money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder;

(b) every

(b) every person having any claim on the said property, to submit to the Collector a statement of such claim, and to produce the documents, if any, by which it is evidenced.

“Such notice shall be in the language of the district, and shall allow a period of sixty days from the date of its publication for compliance therewith. It shall be published by being posted in the court-house of the Court which made the original order under section 304, and at such other places (if any) as the Collector thinks fit. Where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise.”

Amount of money-decrees to be ascertained, and immoveable property available for their satisfaction.

“322B. Upon the expiration of the said period the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such enquiry as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immoveable property, and may from time to time adjourn such hearing and enquiry.

“If there be no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

“If any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order under section 304, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof be within its jurisdiction, or transmit the case to a competent Court for disposal, and the

Amendment. [ACT XII

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final decision shall be communicated to the Collector. The Collector shall then draw up a statement as above provided in accordance with such decision."

"322C. The Collector may, instead of himself issuing the notices and holding the enquiry required by sections 322A and 322B, draw up a statement specifying the circumstances of the judgment-debtor and of his immoveable property so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by sections 322A and 322B, and transmit such statement to the Collector."

When District Court may issue notices and hold inquiry.

"322D. The decision by the Court of any dispute arising under section 322B or section 322C shall, as between the parties thereto, have the force of, and be appealable as, a decree."

Effect of decision of Court as to dispute arising under section 322B or 322C.

"323. Whenever the amount to be recovered and the property available have been determined as provided in section 322B or 322C, the Collector may—

Scheme for liquidation of money-decrees.

(1) if it appears that the amount cannot be recovered without the sale of the whole of the property available, proceed to sell such property; or if it appears that the amount with interest (if any) in accordance with the decree, and when not decreed, with interest (if any) at such rate as he thinks reasonable, may be recovered without such sale,

(2) raise such amount and interest (notwithstanding any order under section 304),

(a) by letting in perpetuity or for a term, on payment of a premium, the whole or any part of the said property; or

(b) by mortgaging the whole or any part of such property; or

(c) by selling part of such property; or

(d) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale; or

(e) partly

(e) partly by one of such modes, and partly by another or others of such modes.

“(3) For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

“(4) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable, or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incumbrance with which the Collector proposes to deal under this paragraph, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

“In proceeding under paragraphs (2), (3) and (4) of this section, the Collector shall be subject to such rules consistent with this Act as may from time to time be made in this behalf by the Chief Controlling Revenue-Authority.”

Recovery of balance, if any, after letting or management.

“324. If, on the expiration of the letting or management under section 323, the amount to be recovered has not been realized, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks of the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly.”

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“324A. The Collector shall from time to time
render to the Court which made the original order
under section 304 an account of all monies which come
to his hands and of all charges incurred by him in the
exercise and performance of the powers and duties
conferred and imposed on him under the provisions
of this chapter, and shall hold the balance at the
disposal of the Court.

Collector to
render ac-
counts to the
Civil Court.

“Such charges shall include all debts and liabilities
from time to time due to the Government in respect
of the property or any part thereof, the rent (if any)
from time to time due to a superior holder in respect
of such property or part, and (if the Collector so
directs) the expenses of witnesses summoned by him.

“Such balance shall be applied by the Court as
follows:—

Application
of balance.

firstly, in providing for the maintenance of such
members of the judgment-debtor's family (if any)
as are entitled to be maintained out of the income
of the property, to such amount in the case of each
member as the Court thinks fit; and

secondly, where the Collector has proceeded under
section 321, in satisfaction of the original decree in
execution of which the Court ordered the sale of im-
moveable property or otherwise as the Court may
under section 295 direct; or

thirdly, where the Collector has proceeded under
section 322, in keeping down the interest on incum-
brances on the property, and (when the judgment-
debtor has no other sufficient means of subsistence) in
providing for his subsistence to such amount as the
Court thinks fit; and in discharging rateably the
claims of the original decree-holder and any other
decree-holders who have complied with the said notice,
and whose claims were included in the amount ordered
to be recovered;

and no other holder of a decree for money shall be
entitled to be paid out of such property or balance
until the decree-holders who have obtained such order
have been satisfied;

and

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and the residue, if any, shall be paid to the judgment-debtor or such other person, if any, as the Court directs."

Sales how to be conducted.

"325. When the Collector sells any property under this chapter, he shall put it up to public auction, in one or more lots as he thinks fit, and may—

(a) fix a reasonable reserved price for each lot;

(b) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment;

(c) buy-in the property offered for sale, and resell the same by public auction or private contract, as he thinks fit."

Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders.

"325A. So long as the Collector can exercise or perform in respect of the judgment-debtor's immovable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections 322 to 325 (both inclusive), the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for money.

"During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

"The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has thereby been temporarily deprived."

Provision where property is in several districts.

"325B. When the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 (both inclusive) shall

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Amendment. [ACT XII

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from time to time be exercised and performed by such
one of the Collectors of the said districts as the Local
Government may by general rule or special order
direct."

"325C. In exercising the powers conferred on
him by sections 322 to 325 (both inclusive), the Col-
lector shall have the powers of a Civil Court to compel
the attendance of parties and witnesses and the pro-
duction of documents."

Powers of
Collector to
compel
attendance of
parties and
witnesses and
production of
documents.
Amendment
of section 326.

51. In section 326, for the last sentence, the
following shall be substituted (namely) :—

"In such case the provisions of sections 320, para-
graph two, to 325C (both inclusive) shall apply, as
far as they are applicable."

52. In section 331, paragraph two, for the words
and figures "the Specific Relief Act, 1877, section
9," the word and figure "chapter V" shall be substi-
tuted; and to the same section the following para-
graph shall be added (namely) :

Amendment
of section
331.

"Every such order shall have the same force as a
decree, and shall be subject to the same conditions as
to appeal or otherwise."

53. In section 332, first paragraph, for the word
"defendant", the word "judgment-debtor" shall be
substituted; and for the other paragraphs the following
shall be substituted (namely) :

Amendment
of section
332.

"If after examining the applicant it appears to
the Court that there is probable cause for making the
application, the Court shall proceed to investigate the
matter in dispute; and if it finds that the ground
mentioned in the first paragraph of this section exists,
it shall make an order that the applicant recover
possession of the property, and if it does not find as
aforesaid, it shall dismiss the application.

"In hearing applications under this section, the
Court shall confine itself to the grounds of dispute
above specified.

"The party against whom an order is passed
under this section may institute a suit to establish the
right which he claims to the present possession of the
property ;

property ; but, subject to the result of such suit, if any, the order shall be final."

Amendment
of section
333.

Transfer of
property by
judgment-
debtor after
institution of
suit.

Amendment
of section
335.

Obstruction
by claimant
other than
judgment-
debtor.

54. For section 333, the following shall be substituted (namely) :—

"333. Nothing in section 331 or 332 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made."

55. In section 335, for the first paragraph, the following shall be substituted (namely) :—

"335. If the purchaser of any such property is resisted or obstructed by any person, other than the judgment-debtor claiming in good faith a right to the present possession thereof, or if, in delivering possession thereof, any such person is dispossessed, the Court, on the complaint of the purchaser or the person so dispossessed, shall inquire into the matter of the resistance, obstruction or dispossession, as the case may be, and pass such order thereon as it thinks fit";

and in the second paragraph of the same section, for the word "conclusive", the word "final" shall be substituted.

Amendment
of section
336.

56. In section 336, for the first proviso, the following shall be substituted :—

"Provided that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset or before sunrise, and no outer door of a dwelling-house shall be broken open :

"But when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe the judgment-debtor is to be found : provided that, if the room be in the actual occupancy of a woman who is not the judgment-debtor, and who according to the customs of the country does not appear in public, the officer shall give notice to her that she is at liberty to withdraw ; and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of making the arrest."

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57. In section 339, paragraph four, after the word
“made”, the words “to the proper officer of the
Court” shall be inserted ; and to the same paragraph
the following words shall be added (namely) : “and
the subsequent payments (if any) shall be made to the
officer in charge of the jail.”

Amendment
of section
339.

58. In section 341, for clauses (a), (b), (c), (d)
and (e) and the proviso, the following shall be substi-
tuted (namely) :—

Amendment
of section
341.

“(a) on the amount mentioned in the warrant of
committal being paid to the officer in charge of the
jail ; or

“(b) on the decree being otherwise fully satisfied ;
or

“(c) at the request of the person on whose applica-
tion he has been imprisoned ; or

“(d) on such person omitting to pay the allowance
as hereinbefore directed ; or

“(e) if the judgment-debtor be declared an insol-
vent, as hereinafter provided ; or

“(f) when the term of his imprisonment, as
limited by section 342, is fulfilled :

“Provided that, in the second, third and fifth cases
mentioned in this section, the judgment-debtor shall
not be discharged without the order of the Court.”

59. For section 344, the following shall be sub-
stituted :—

Amendment
of sections
344, 345, 347,
349, 350, 351,
356, 357, 358,
359 and 360.
Power to
apply for
declaration
of insol-
vency.

“344. Any judgment-debtor arrested or imprison-
ed in execution of a decree for money, or against
whose property an order of attachment has been made
in execution of such a decree, may apply in writing to
be declared an insolvent.

“Any holder of a decree for money may apply in
writing that the judgment-debtor may be declared an
insolvent.

“Every such application shall be made to the
District Court within the local limits of whose jurisdic-
tion the judgment-debtor resides or is in custody.”

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In section 345, for the first line and clause (a), the following shall be substituted namely:—

Contents of application.

“345. The application, when made by the judgment-debtor, shall set forth—

“(a) the fact of his arrest or imprisonment, or that an order for the attachment of his property has been made, the Court by whose order he was arrested or imprisoned, or by which the order of attachment was made, and, where he has been arrested or imprisoned, the place in which he is in custody.”

And to the same section the following paragraph shall be added:—

“The application, when made by the holder of a decree for money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides or is in custody.”

In section 347, for the first paragraph, the following shall be inserted (namely):—

Service of copy of application and notice.

“347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in court and served at the applicant's expense—

“where the applicant is the judgment-debtor—on the holder of the decree in execution of which he was arrested or imprisoned or the order of attachment was made, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application:

“where the applicant is the decree-holder—on the judgment-debtor or his pleader.”

To section 349 the following words shall be added (namely): “or release him on his furnishing sufficient security that he will appear when called upon.”

In sections 349, 350 and 351, for the word “applicant” wherever it occurs, the word “judgment-debtor” shall be substituted.

In section 351, clause (b), after the word “imprisoned”,

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prisoned", the words "or the order of attachment was made," shall be inserted.

In section 356, for clause (d), the following clauses shall be substituted:—

"(d) to discharge according to their respective priorities all debts secured by mortgage of the insolvent's property:

"(e) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference."

And to the same section the following shall be added (namely):—

"Provided that, in any local area in which a declaration has been made under section 320 and is in force, no sale of immoveable property paying revenue to Government or held or let for agricultural purposes shall be made by the Receiver; but after he has sold the other property of the insolvent, the Court shall ascertain (a) the amount required to satisfy the claims of the scheduled creditors after deducting the monies already received, (b) the immoveable property of the insolvent remaining unsold, and (c) the incumbrances, if any, existing thereon, and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 322 to 325 both inclusive, as he thinks fit, and subject to the provisions of those sections so far as they may be applicable; and shall hold at the disposal of the Court all sums that may come to his hands by such exercise."

In section 357, for the figures "355", the figures and word "351 or 355" shall be substituted;

and for the words "decrees against him held by the scheduled creditors are fully satisfied or become capable of being executed", the following shall be substituted (namely): "debts due to the scheduled creditors are satisfied to the extent of one-third, or until the expiry of twelve years from the date of the order of discharge under section 351 or 355."

For

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Civil Procedure Code Amendment. [ACT XII]

For section 358 the following shall be substituted :—

Declaration
that insol-
vent is dis-
charged
from liabili-
ty.

“358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third, or after the expiry of twelve years from the order of discharge, the Court shall, declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.”

In section 359, after the words “sentence him”, the words “by order in writing” shall be inserted.

To section 360 the following paragraph shall be added (namely) :—

“Nothing in this chapter shall apply to any Court having jurisdiction in the towns of Rangoon, Maulmain, Akyab and Bassein where the property of the judgment-debtor exceeds in value two thousand five hundred rupees, or the amount of the pecuniary claims against him exceeds five thousand rupees, or such property or any part thereof is situate outside British Burma.”

Amendment
of sections
361, 362,
363, 365 and
368.

60. In sections 361, 362, 363, 365 and 368, for the words “cause of action” wherever they occur, the words “right to sue” shall be substituted; and to section 368 the following clause shall be added (namely) :

“When the plaintiff fails to make such application within the period prescribed therefor, the suit shall abate.”

Amendment
of sections
364 and 366.

61. In section 364, paragraph one, and section 366, paragraph one, after the word “If”, the words “within the time limited by law” shall be inserted; and in the latter section, paragraph one, before the word “award”, the words “shall, on the application of the defendant,” shall be inserted.

Amendment
of section
371.

62. In section 371, paragraph two, after the word “deceased”, the word “or” shall be inserted.

Amendment
of section
373.

63. In section 373, paragraph one, for the words “for the part”, the words “in respect of the part” shall be substituted; and to paragraph two, the words “or in respect of the same part” shall be added.

Amendment

64. In section 375, after the word “adjusted”, the words

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words “wholly or in part” shall be inserted : after the words “respect to”, the words “the whole or any part of” shall be inserted ; and to the same section shall be added the words “so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction.”

of section
375.

65. In section 377, for the first seven words, the following shall be substituted (namely) : “Notice in writing of the deposit shall be given through the Court”.

Amendment
of section
377.

66. In sections 384, 477 and 483, after the word “affidavit”, the words “or otherwise” shall be inserted.

Amendment
of sections
384, 477 and
483.

67. In section 386, for the second paragraph and the two provisoes, the following shall be substituted (namely) :

Amendment
of section
386.

“Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint.”

68. In section 406, for the word “shall”, the words “may, if he thinks fit,” shall be substituted.

Amendment
of section
406.

69. In section 412, after the word “dispaupered,” the words and figures “or if the suit is dismissed under section 97 or 98,” shall be inserted.

Amendment
of section
412.

70. In section 413, for the word “Refusal”, the words and figures “An order of refusal made under section 409” shall be substituted.

Amendment
of section
413.

71. In section 424, after the words “against a public officer”, the words “in respect of an act purporting to be done by him in his official capacity” shall be inserted ; and in sections 428 and 429, after the words “public officer”, the words “in respect of such act as aforesaid” shall be inserted.

Amendment
of sections
424, 428 and
429.

72. In section 437, for the first sentence, the following shall be substituted (namely) :

Amendment
of section
437.

“In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator

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administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit."

Amendment
of section
456.

73. In section 456, for the words "in the name of the minor", the words "in the name and on behalf of the minor or by the plaintiff" shall be substituted; and to the same section the following paragraph shall be added (namely):

"Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian: provided that he has no interest adverse to that of the minor."

Amendment
of section
469.

74. In section 469, after the word "arrest" and after the word "warrant" (in each of the places where it occurs), the words "or other process" shall be inserted; and in the second paragraph, after the words "signature, and", the words "in the case of a warrant of arrest" shall be inserted.

Amendment
of section
473.

75. To section 473 the words "and shall adjudicate on such claim" shall be added.

Amendment
of section
478.

76. In the last paragraph of section 478, for the words "an order for bringing the defendant", the words "a warrant to arrest the defendant and bring him" shall be substituted.

Amendment
of section
481.

77. To section 481 the following words shall be added (namely): "provided that no person shall be detained in prison under this section after he has complied with such order."

Amendment
of section
483.

78. In section 483, after the words "portion of his property", the words "within the jurisdiction of the Court" shall be inserted.

Amendment
of section
484.

79. In section 484, after the word "suit," the words "or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him" shall be inserted.

Amendment
of section
497.

80. In section 497, clause one, for the words "the injunction", the words "an injunction which it has granted" shall be substituted.

Amendment
of section
523.

81. In section 523, paragraph three, for the words "any of", the word "all" shall be substituted.

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82. In the last clause of section 539, for the words " (where there is no Advocate General) be exercised by the Government Advocate or (where there is no Government Advocate)", the following words shall be substituted (namely): "outside the Presidency-towns be exercised also by the Collector or".

Amendment of section 539.

83. In section 544, for the words "decree, and", the words "decree, and thereupon" shall be substituted.

Amendment of section 544.

84. For section 555, the following shall be substituted (namely):—

Amendment of section 555.

"555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply."

Right to begin.

85. In section 560, for the words "it be proved that the respondent", the words "he satisfies the Court that the notice was not duly served, or that he" shall be substituted.

Amendment of section 560.

86. In section 561, for the words "given to the appellant or his pleader seven days' notice of such objection", the words "filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal" shall be substituted.

Amendment of section 561.

87. In section 566, paragraph two, for the word "issue," the word "issues," shall be substituted.

Amendment of section 566.

88. For the first paragraph of section 582, the following shall be substituted (namely):—

Amendment of section 582.

"582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under chapter V; and in sections 363 and 365, the word 'plaintiff' shall be held to include an appellant."

Appellate Courts to have same powers as Courts of original jurisdiction.

89. In section 584, clause (c), after the word "may", the word "possibly" shall be inserted.

Amendment of section 584.

90. In

27

Amendment
of section
588.

90. In section 588, for clauses (a) to (w), the following shall be substituted (namely):—

“ (1) orders under section 20, staying proceedings in a suit ;

“ (2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant ;

“ (3) orders under section 36 or section 66, directing that a party shall appear in person ;

“ (4) orders under section 44, adding a cause of action ;

“ (5) orders under section 47, excluding a cause of action ;

“ (6) orders returning plaints for amendment or to be presented to the proper Court ;

“ (7) orders under section 111, setting-off, or refusing to set-off, one debt against another ;

“ (8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit ;

“ (9) orders rejecting applications under section 108 for an order to set aside a decree *ex parte* ;

“ (10) orders under sections 113, 120 and 177 ;

“ (11) orders under section 116 or section 245 rejecting, or returning for amendment, written statements or applications for execution of decrees ;

“ (12) orders under sections 143 and 145, directing anything to be impounded ;

“ (13) orders under section 162 for the attachment and sale of moveable property ;

“ (14) orders under section 168 for attachment of property, and orders under section 170 for the sale of attached property ;

“ (15) orders under section 261, as to objections to draft-conveyances or draft-endorsements ;

“ (16) orders under section 294, the first paragraph of section 312, or section 313, for confirming, or setting aside, or refusing to set aside, a sale of immoveable property ;

“ (17) orders

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“(17) orders in insolvency-matters, under section 351, 352, 353 or 357;

“(18) orders under section 366, paragraph two, section 367 or 368;

“(19) orders rejecting applications under section 370 for dismissal of a suit;

“(20) orders under section 371 refusing to set aside the abatement or dismissal of a suit;

“(21) orders disallowing objections, under section 372;

“(22) orders under section 454, 455 or 458, directing a next friend or guardian for the suit to pay costs;

“(23) orders in interpleader-suits under section 473, clause (a), (b) or (d), section 475 or section 476;

“(24) orders under section 479, 480, 485, 492, 493, 496, 497, 502 or 503;

“(25) orders under section 514, superseding an arbitration;

“(26) orders under section 518, modifying an award;

“(27) orders of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal;

“(28) orders under section 562, remanding a case;

“(29) orders under any of the provisions of this Code, imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree.”

91. For the first paragraph of section 589, the following shall be substituted:—

Amendment of section 589.

“589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court.”

What Courts to hear appeals.

92. In section 622, after the words “so vested,” the words “or to have acted in the exercise of its jurisdiction illegally or with material irregularity” shall be inserted.

Amendment of section 622.

93. In section 638, for the figures and word “16 and 17,” the figures and word “16, 17 and 19,” shall

Amendment of section 638.

be

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be substituted; and in the last paragraph, after the word "any", the words "Judge of a" shall be inserted, and the word "its" shall be omitted.

Amendment
of section
642.

94. In section 642, for the second paragraph, the following shall be substituted (namely):—

"And, except as provided in sections 256 and 643, where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtárs, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under this Code while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal."

Amendment
of section
648.

Procedure
when person
to be arrested
or property
to be attached
is outside
the district.

95. For section 648, the following shall be substituted (namely):—

"648. Where any Court desires that any person shall be arrested or any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

"The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment;

"and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under chapter XXXIV) for satisfying any decree that may be passed

against

Paragraph, after the
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against him by such Court, in either of which cases the Court making the arrest shall release him."

96. To section 649 the following paragraph shall be added (namely) :—

Amendment of section 649.

"In the same chapter, the expression 'Court which passed a decree,' or words to that effect, shall, unless there be something repugnant in the context, be deemed to include, where the decree to be executed is passed in appeal, the Court which passed the decree against which the appeal was preferred, and, where the Court which passed the decree to be executed has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making application for execution of the decree, would have jurisdiction to try such suit."

97. After section 650, the following shall be inserted (namely) :—

Addition to section 650.

"650A. Summonses issued by any Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts: provided that the Courts issuing such summonses have been established by the authority of the Governor General in Council, or that the Governor General in Council has, by notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts."

Service of foreign summonses.

98. In section 652, after the words "connected with", the words "its own procedure or" shall be inserted.

Amendment of section 652.

99. In the first schedule, column third, opposite "XI of 1865," for the figures and word "11, paragraph 2," the figures and words "11, the last nineteen words of section 13, section 19" shall be substituted; and opposite "V of 1866", after the word "inclusive)" the words "and the schedule" shall be inserted.

Amendment of schedule I.

100. In the second schedule—

for the figures "230", the figures "228" shall be substituted:

Amendment of schedule II.

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before the word and figures "Chapter XXI", the words and figures "Chapter XX, section 360—Power to invest certain Courts with insolvency-jurisdiction" shall be inserted :

after the words and figures "Chapter XXXIV.—Of arrest and attachment before judgment", the words and figures "except as regards immoveable property.

"Chapter XXXVI—Appointment of receivers" shall be inserted : and

for the figures "522", the figures "526" shall be substituted.

Amendment of schedule IV.

101. In the fourth schedule, to the note to form No. 145 the following words shall be added (namely) : "and as fairly and accurately as possible the other particulars required by section 287 to be specified" ; in form No. 149, for the word "thirty", the word "sixty" shall be substituted ; and in form No. 172, for the word "seven" in each of the places where it occurs, the word "ten" shall be substituted.

Pending appeals.

102. Every appeal now pending which would have lain if this Act had been in force on the date of its institution shall be heard and determined as if the Act had been in force on such date ; and every order heretofore passed purporting to transfer a case to a Collector under section 320, and every notification heretofore published purporting to be issued under section 360, shall be deemed to have been respectively passed and issued in accordance with law.

Orders and notifications under sections 320 and 360.

Interpretation-clause.

103. In the preceding sections of this Act, the words "section" and "schedule" respectively mean section of, and schedule annexed to, the said Code.

AND whereas it is also expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing ; It is hereby further enacted as follows :—

Amendment of Act III. of 1877, section 35.

104. In section 35 of the same Act, after the words "person appears", the words "to the registering officer" shall be inserted ; and after the words "refuse to register the document", the words "as to the

1879.] *Civil Procedure Code Amendment.*

the person so denying, appearing or dead" shall be inserted.

105. In section 51 of the same Act, for the figures "87", the figures "89" shall be substituted.

Amendment of section 51.

106. In section 83 of the same Act, for the words "Subordinate Magistrate of the first", the words "Magistrate of the second" shall be substituted.

Amendment of section 83.

107. In section 89 of the same Act, for the words "the certificate", the words "the copy" shall be substituted; and to the same section the following paragraph shall be added (namely) :—

Amendment of section 89.

"Every Court granting a certificate under section 316 of the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1."

AND whereas it is also expedient to amend the Indian Limitation Act, 1877, in manner hereinafter appearing; It is hereby further enacted as follows :—

108. In the second schedule to the said Indian Limitation Act 1877—

Amendment of Act XV of 1877, schedule II.

for No. 161, the following shall be substituted (namely) :—

"161.—For the issue of a notice under section 258 of the same Code to show cause why the payment or adjustment therein mentioned should not be recorded as certified.	Twenty days.	When the payment or adjustment is made."
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to No. 166, column one, the following words shall be added (namely) : "or on the ground that the decree-holder has purchased without the permission of the Court";

to No. 171, column one, the words "or appellant" shall be added; and in column three, after the word "plaintiff's," the words "or respondent's" shall be inserted;

Amendment. [ACT XII

"Chapter XXI", the section 360—Power of jurisdiction

Chapter XXXIV.—Of immoveable property.

of receivers"

"526" shall be

the note to form added (namely): "the other specified"; in the word "sixty" No. 172, for the where it occurs,

which would on the date of determined as if and every order after a case to a every notification issued under on respectively

this Act, the tively mean said Code.

amend the hereinafter follows:—

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to the

Civil Procedure Code Amendment. [ACT XII, 1879.]

after No. 171, the following shall be inserted
(namely) :—

" 171A.—Under section 366 of the same Code, by the defendant.	Sixty days ...	The date of the plaintiff's death.
" 171B.—Under section 368 of the same Code, to have the representative of a deceased defendant made a defendant.	Ditto ...	The date of the defendant's death.
" 171C.—Under section 371 of the same Code, for an order to set aside an order for abatement or dismissal.	Ditto ...	The date of the order for abatement or dismissal."

and in No. 179, column three, paragraph 6, for the words "specified date) the date so specified," the words "certain date) such date" shall be substituted.

ment. [ACT XII, 1879.]

ing shall be inserted

Sixty days ...	The date of the plaintiff's death.
Ditto ..	The date of the defendant's death.
Ditto ...	The date of the order for abatement or dismissal."

, paragraph 6, for the
be so specified," the
shall be substituted.

THE OUDH CIVIL COURTS ACT, 1879.

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ACT No. XIII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 30th July, 1879).

An Act to amend the law relating to Civil Courts in Oudh.

WHEREAS it is expedient to amend the law relating to Civil Courts in Oudh; It is hereby enacted as follows:— Preamble.

CHAPTER I. PRELIMINARY.

1. This Act may be called "The Oudh Civil Courts Act, 1879": Short title.

It extends to all the territories for the time being administered by the Chief Commissioner of Oudh; and it shall come into force on the first day of August, 1879. Local extent.
Commence-
ment.

2. On and from that day the Acts mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column thereof. Repeal of
enactments.

3. In this Act, "district" means the area comprised in the local limits of the jurisdiction of the District Judge. "District"
defined.

CHAPTER II.

CONSTITUTION OF COURTS.

4. Besides the Courts established under any other enactment for the time being in force, there shall be four grades of Civil Courts in Oudh (namely):— Grades of
Courts.

- (1) the Court of the Munsif;
- (2) the Court of the Subordinate Judge;
- (3) the Court of the District Judge;
- (4) the Court of the Judicial Commissioner.

5. The

Number of Judges.

5. The number of District Judges, Subordinate Judges and Munsifs to be appointed under this Act shall be fixed, and may from time to time be altered, by the Local Government.

Appointment of officers under Act.

6. The Judicial Commissioner shall be appointed by the Local Government, with the previous sanction of the Governor General in Council.

The District Judges, Subordinate Judges and Munsifs shall be appointed by the Local Government :

Provided that the Judicial Commissioner holding office under the Oudh Civil Courts Act, 1871, at the time this Act comes into force, shall be deemed to have been appointed under this Act.

Additional Judges.

7. When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the Judicial Commissioner, and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a Judge under chapter III of this Act that the District Judge may, with the sanction of the Judicial Commissioner, assign to them ; and in the performance of such duties they shall exercise the same powers as the District Judge.

Temporary charge of office of District Judge.

8. In the event of the death of a District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station at which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the Subordinate Judge holding his court at the same place, shall, without relinquishing his ordinary duties, assume charge of the Judge's office at such station ;

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions ;

and shall continue in charge of the office until it is resumed by the District Judge, or assumed by an officer duly appointed thereto.

Judges, Subordinate and under this Act to time be altered,

shall be appointed previous sanction

the Judges and Municipal Government :

Commissioner holding this Act, 1871, at shall be deemed

before any District Judges for its may, upon the Commissioner, and Governor General Judges as may

from any of the this Act that sanction of the and in the exercise the

District Judge, or otherwise of his absence held, the Additional Judge hold- shall, without re- charge of the

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9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave, when no person is appointed to act for him, the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

Transfer of proceedings on death, &c., of Subordinate Judge.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

10. The Court of the District Judge shall be deemed to be the principal Civil Court of original jurisdiction in the district over which his jurisdiction extends.

Principal Civil Court of original jurisdiction.

The control over all the Civil Courts in such district is invested in the said District Judge, but subject to the general control of the Judicial Commissioner.

Control over Civil Courts.

11. The Judicial Commissioner and the District Judges, Subordinate Judges and Munsifs shall appoint the ministerial officers of their respective Courts :

Appointment of ministerial officers of Courts.

Provided that, in the case of the Subordinate Judges and Munsifs, such appointments shall require the sanction of the District Judge to whose control they are respectively subject.

12. The Judicial Commissioner or any District Judge may transfer any ministerial officer from any Court under his control to any other Court under his control.

Transfer of ministerial officers.

13. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

Seals of Courts.

14. The Local Government may fix, and from time to time alter, the place or places at which any Court under this Act is to be held.

Place of sitting of Courts.

15. The Local Government may from time to time, by notification in the official Gazette, invest such persons as it thinks fit with the powers of a Munsif, subject to such restrictions in respect of the value of the subject-matter of the suit as may be deemed proper, and withdraw such jurisdiction.

Power to confer Munsif's jurisdiction.

All persons so invested shall be called "Honorary Assistant Commissioners."

All Honorary Assistant Commissioners invested with powers under the Oudh Laws Act, 1876, section forty-three, and exercising such powers at the time this Act comes into force, shall be deemed to have been invested with the like powers under this section.

CHAPTER III.

GENERAL JURISDICTION.

Power to fix local limits of jurisdiction.

16. The Local Government shall, by notification in the official Gazette, fix, and may by like notification from time to time vary, the local limits of the jurisdiction of any Civil Court or person invested with the powers of a Civil Court under this Act.

Extent of original jurisdiction of District Judge;

17. Subject to the provisions of the Code of Civil Procedure, section fifteen—

(a) the jurisdiction of a District Judge extends to all original suits cognizable by the Civil Courts;

of Subordinate Judge;

(b) the jurisdiction of a Subordinate Judge extends to all suits in which the amount or value of the subject-matter in dispute does not exceed ten thousand rupees; and

of Munsif.

(c) the jurisdiction of a Munsif extends to all suits in which such amount or value does not exceed five hundred rupees:

Provided that the Local Government may from time to time, by notification in the official Gazette, confer upon any Munsif jurisdiction in suits in which the amount or value of the subject-matter in dispute exceeds five hundred rupees but does not exceed one thousand rupees,

and may by like notification withdraw such jurisdiction.

Appeals from Munsifs and Subordinate Judges.

18. Appeals from the decrees and orders of Munsifs and Subordinate Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the District Judge:

Provided

Provided that the Judicial Commissioner may from time to time, subject to such restrictions as he thinks fit, order that all or any of the appeals from the decrees and orders of a Munsif shall be preferred to such Subordinate Judge as may be mentioned in the order; and such appeals shall thereupon be preferred accordingly.

19. Every District Judge may from time to time, subject to the orders of the Judicial Commissioner, refer to any Subordinate Judge under his control any appeals pending before him from the decrees and orders of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

Power to refer to Subordinate Judge appeals from Munsifs.

The District Judge may withdraw any appeals so referred, and hear and dispose of appeals so withdrawn.

20. Appeals from the decrees and orders of District Judges and Additional Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the Judicial Commissioner.

Appeals from District and Additional Judges.

21. When the decision of a Subordinate Judge, District Judge or Additional Judge passed in appeal confirms the decree or order of the Court of first instance, such decision shall, subject to the provisions of the Code of Civil Procedure, section six hundred and twenty-two, be final; but when such decision reverses or modifies such decree or order, the Judicial Commissioner may receive a second appeal if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, he is of opinion that a further consideration of the case is requisite for the ends of justice.

When Judicial Commissioner may receive second appeal.

22. For the purposes of sections eighteen to twenty-one (both inclusive), all decrees, orders and decisions passed before the date on which this Act comes into force shall be deemed—

Appeals from decrees, &c., passed before Act comes into force.

(a) if passed by a Commissioner,—to have been passed by a District Judge;

(b) if passed by a Deputy Commissioner or the Civil Judge of Lucknow, or by an Assistant or Extra-Assistant Commissioner in exercise of enhanced

powers

powers conferred under the Oudh Civil Courts Act, 1871, section eleven, clause two,—to have been passed by a Subordinate Judge; and

(c) if passed by an Assistant or Extra-Assistant Commissioner otherwise than as aforesaid, or by a Tahsildár,—to have been passed by a Munsif.

Presiding officer of Court not to try suit, &c., in which he is interested.

23. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself, or shall adjudicate upon any proceeding connected with or arising out of such suit or appeal.

Mode of disposing of such suit, &c.

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by section twenty-five of the Code of Civil Procedure.

In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall report the fact to the Local Government, which may transfer the case to the High Court of the North-Western Provinces for disposal, or appoint an officer to be an Additional Judicial Commissioner for the disposal of the case.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to invest with Small Cause Court jurisdiction.

24. The Local Government may invest, within such local limits as it from time to time fixes, any District Judge, Additional Judge or Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Judge or Munsif so invested.

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25. The Judicial Commissioner may from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.

The proceedings herein referred to are the following (that is to say) :—

(1) Proceedings under Act XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or Act IX of 1861 (*to amend the law relating to minors*).

(2) Applications for permission to sue or appeal as a pauper.

(3) Applications for certificates under Act XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred, and may either dispose of them himself, or, with the sanction of the Judicial Commissioner, transfer them to any other Subordinate Judge or Munsif under his control.

26. Subject to the provisions of the last clause of section twenty-five all proceedings transferred under that section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases :

Disposal of proceedings so transferred.

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the Judicial Commissioner, if an appeal from the decision of the District Judge in such proceedings is allowed by the law in force for the time being.

27. For the purposes of the Indian Divorce Act, the Judicial Commissioner shall, throughout the said territories

Jurisdiction under Divorce Act.

territories to which this Act applies, be deemed to be the Commissioner of the Division.

CHAPTER V.

MISCONDUCT OF OFFICERS.

Suspension and removal of Judicial Commissioner.

28. The Judicial Commissioner may, with the previous sanction of the Governor General in Council, be suspended or removed by the Local Government.

Suspension or removal of subordinate judicial officers by Local Government.

29. Any District Judge, Additional Judge, Subordinate Judge or Munsif may be suspended or removed by the Local Government.

Suspension of Subordinate Judge or Munsif by Judicial Commissioner.

30. The Judicial Commissioner may, whenever he sees urgent necessity for so doing, suspend any Subordinate Judge or Munsif under his control.

Whenever the Judicial Commissioner exercises this power, he shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsif by District Judge.

31. Any District Judge may, whenever he sees urgent necessity for so doing, suspend any Munsif under his control.

Whenever the District Judge suspends any such Munsif, he shall forthwith send to the Local Government, through the Judicial Commissioner, a full report of the case, with the evidence (if any); and the Local Government shall make such order thereon as it thinks fit.

Removal, &c., of ministerial officers of Judicial Commissioner's Court.

32. The Judicial Commissioner may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary.

Removal, &c., of ministerial officers of Judges' Courts.

33. The Judicial Commissioner, and, subject only to the general control of the Judicial Commissioner, the Judges of the District Courts, may remove or suspend the ministerial officers of such Courts, or fine them in an amount not exceeding one month's salary.

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34. Any Subordinate Judge or Munsif may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Judicial Commissioner, may, on appeal or otherwise, reverse or modify every such order.

Removal, &c., of ministerial officers of Subordinate Judges' and Munsifs' Courts.

The Judicial Commissioner (or the District Judge within whose jurisdiction such Court is situate) may by order suspend or remove any such ministerial officer.

35. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

Recovery of fines.

CHAPTER VI.

MISCELLANEOUS.

36. The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules—

Petition-writers.

(a) declaring what persons shall be permitted to practise as petition-writers in the Civil Courts of Oudh; and

(b) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section shall be punished with fine which may extend to fifty rupees.

37. When a mortgagee shall, under or by virtue of a mortgage executed before the thirteenth of February, 1844, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Bar of redemption-suits when mortgage executed before 13th February, 1844.

Notions

Redemption-suits not barred where fixed term for redemption had not expired before 13th February, 1856.

Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February, 1856: provided that, if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

Vacations.

38. Subject to such orders as may from time to time be issued by the Governor General in Council, and to the approval of the Local Government, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in the Court subordinate to him.

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly.

Pending proceedings.

39. All cases pending before the Judicial Commissioner under the Oudh Laws Act, 1876, section twenty-eight, on the first day of August, 1879, shall be disposed of as if this Act had not been passed,

and all other proceedings pending on that day shall be heard and disposed of by the Courts established under this Act that would have had jurisdiction if they had been in existence when such proceedings were instituted.

For the purposes of this section, all appeals pending on the said day shall—

(a) if preferred from the decrees, orders or decisions of Commissioners,—be deemed to be appeals from District Judges;

(b) if preferred from the decrees, orders or decisions of Deputy Commissioners or the Civil Judge of Lucknow or of Assistant Commissioners, or Extra-Assistant Commissioners acting in exercise of enhanced powers conferred under the Oudh Civil Courts Act, 1871, section eleven, clause two,—be deemed to be appeals from Subordinate Judges; and

(c) if

1879.]

Oudh Civil Courts.

(c) if preferred from the decrees or orders of Assistant Commissioners or Extra-Assistant Commissioners otherwise acting or of Tahsildárs,—be deemed to be appeals from Munsifs.

SCHEDULE.

ACTS REPEALED.

(See section 3.)

Number and year.	Title of Act.	Extent of repeal.
Act X of 1870 ...	The Land Acquisition Act, 1870.	So much of section 3 as declares the Commissioner of a Division to be a principal Civil Court of original jurisdiction in Oudh.
Act XXXII of 1871	The Oudh Civil Courts Act, 1871.	The whole Act, except section 40.
Act XVIII of 1876 ...	The Oudh Laws Act, 1876.	Sections 21, 28 and 43.
Act XIV of 1878 ...	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 3.

ACT No. XIV OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 5th September, 1879).

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Hackney-carriage Act, 1879":

Short title.

and it shall come into force at once;

Commencement.

but nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule made in exercise of any such power.

Saving.

2. In this Act—

Interpretation-clause.

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire; and

"Committee" means a Municipal Committee, or a body of Municipal Commissioners, constituted under the provisions of any enactment for the time being in force.

3. The Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Application of Act to municipalities.

When

[Price two annas.]

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Confirmation and publication of rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law :

Power of Local Government to rescind rules.

Provided that the Local Government may, at any time, rescind any such rule.

Power to make rules for cantonments.

4. The Local Government of any of the said territories may from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it; and

the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned.

All rules made under this section when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

Power to extend operation of rules beyond limits of municipality or cantonment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned :

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When

to any municipality may, from time to time, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

6. The rules to be made under section three or section four may, among other matters,—

(a) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(b) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(c) provide for the issue of the licenses referred to in clauses (a) and (b), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(d) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(e) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(f) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(g) provide for the numbering of such carriages;

(h) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(i) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

6. The rules to be made under section three or section four may, among other matters,—

(a) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(b) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(c) provide for the issue of the licenses referred to in clauses (a) and (b), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(d) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(e) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(f) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(g) provide for the numbering of such carriages;

(h) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(i) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

What rules under sections 3 and 4 may provide for.

(j) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(k) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(l) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(m) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges, and

(n) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may, besides determining

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determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

10. If at the time any dispute mentioned in section nine arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

In case of
dispute, hirer
may require
driver to
take him to
Court.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

THE RANGOON PORT COMMISSIONERS ACT,
1879.

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[Price eight annas and six pies.]

SECTION.

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ACT No. XV OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 12th September, 1879).

An Act to appoint Commissioners for the Port of Rangoon.

WHEREAS it is expedient to provide for the management of the affairs of the Port of Rangoon, and for that purpose to appoint Commissioners; It is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Rangoon Port Commissioners Act, 1879":

Short title.

and it shall come into force on such date as the Local Government may notify in the local official Gazette.

Commencement.

Nothing herein contained shall affect the powers conferred on the Chief Commissioner of British Burma under the British Burma Municipal Act, 1874, section 28.

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

Interpretation-clause.

"port" means the Port of Rangoon as defined for the purposes of this Act :

"port":

"river" means any flowing water within a radius of eight statute-miles from Soolay Pagoda wharf navigable by vessels, and includes the bank up to high-water mark :

"river":

"high-water mark"

“ high-water mark ”: “ high-water mark ” means a line drawn through the highest points reached by ordinary spring-tides at any season of the year :

“ low-water mark ”: “ low-water mark ” means the lowest point reached by ordinary ebb spring-tides at any season of the year :

“ vessel ”: “ vessel ” includes anything made for the conveyance by water of human beings or of property :

“ master ”: “ master,” when used in relation to any vessel, means any person (except a pilot or harbour-master) having for the time being the charge or control of such vessel :

“ pilot ”: “ pilot ” means a person for the time being authorized by the Local Government to pilot vessels :

“ owner ”: “ owner ” includes also any agent to whom a vessel is consigned :

“ land ”: “ land ” includes the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth ; and

“ commis- sioners.” “ commissioners ” means the Commissioners appointed under this Act.

Power to define and alter limits of port. **3.** The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define the limits of the port for the purposes of this Act, and may, from time to time, with the like sanction, and by a like notification, alter such limits.

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

CHAPTER II.

OF THE APPOINTMENT AND REMOVAL OF THE COMMISSIONERS.

4. The Local Government may, from time to time, appoint persons, either by name or by virtue of their office, to be Commissioners for the Port of Rangoon :

Appointment of Commissioners.

Provided that—

(a) the number of such Commissioners holding office at one and the same time shall not be more than twelve or less than nine :

(b) the number of such Commissioners who are persons holding salaried offices under Government shall not be—

(i) less than four or more than six when the total number of Commissioners is eleven or twelve ;

(ii) less than three or more than five when the total number of Commissioners is nine or ten.

5. Commissioners shall hold office for two years, and may thereafter be reappointed ; but the Local Government may at any time accept the resignation of any Commissioner.

Tenure of office.

6. Notwithstanding anything in sections four and five, the Local Government may,—

Removal of Commissioners.

(a) with the previous sanction of the Governor General in Council, by written order direct that any Commissioner therein named shall cease from a specified date to be a Commissioner ;

(b) by written order direct that any Commissioner therein named who, without the written consent of the Local Government, absents himself from six consecutive meetings of the Commissioners shall cease to be a Commissioner :

and the Commissioner so named shall cease to be a Commissioner accordingly.

7. The Local Government may from time to time appoint one of the Commissioners to be Chairman and another of the Commissioners to be Vice-chairman, and cancel such appointment. Such Chairman and

Chairman and Vice-chairman.

Vice-chairman

Commissioners. [ACT XV

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CHAPTER II.

Vice-chairman respectively shall receive such remuneration, if any, as the Local Government may from time to time determine.

Appoint-
ments, &c.,
to be notified.

8. Every appointment and removal from office made and resignation accepted under sections four, five, six and seven shall be notified in the local official Gazette.

CHAPTER III.

POWERS AND DUTIES OF COMMISSIONERS.

Administra-
tion vests in
Commis-
sioners.

9. Subject to the powers conferred on, and reserved to, the Governor General in Council and the Local Government respectively by this Act or any other enactment for the time being in force, the execution and administration of the powers and trusts created and declared by this Act shall be vested in the Commissioners.

Power to
hold pro-
perty.

10. With the previous sanction of the Local Government, the Commissioners may acquire and hold moveable or immovable property within or without the limits of the port; and, with the same sanction, may lease, mortgage, sell or exchange such property.

Transfer of
Government
property to
Commis-
sioners.

11. The property specified in schedule A hereto annexed shall be vested in the Commissioners:

Provided that—

(a) no buildings or other permanent structures shall be erected thereon, except with the sanction of, and in accordance with plans to be previously approved by, the Local Government;

(b) any portion of such property required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Commissioners, except for buildings or other permanent structures erected thereon with the sanction of the Local Government subsequently to the date on which this Act comes into force;

(c) if any question arises between the Government and the Commissioners as to the boundaries of any portion of such land, the Local Government may define

define and demarcate such boundaries, and the decision of the Local Government in respect to such boundaries shall be final.

12. As compensation for loss of income heretofore derived from any source of revenue transferred from the municipality of Rangoon to the Commissioners, the Local Government may assign annually to the said municipality, from the money received by the Commissioners, such sum not exceeding the average of such income during the five years next preceding the date on which this Act comes into force as the Local Government thinks fit.

Compensation to municipality for loss of income.

13. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the Commissioners of the compensation awarded under that Act, the land shall vest in the Commissioners.

Acquisition of land.

14. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners shall be held and applied by them in trust for the purposes of this Act.

Property to be in trust.

15. The works to be constructed and carried out by the Commissioners may include the following:—

Works to be constructed.

(a) wharves, quays, stages, jetties and piers, with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches;

(b) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandise landed or to be shipped;

(c) laying down moorings and the erection of cranes, scales and all other necessary appliances for loading and unloading vessels;

(d) reclaiming, enclosing and raising any part of the bank or bed of the river within the limits of the port;

(e) the construction and application of dredges and other machines for cleaning, deepening and improving

proving the bed of the river within the limits of the port;

(*f*) procuring and employing steam-vessels for towing vessels into, out of, in or upon, the river or the port;

(*g*) such works without the limits of the port as shall be necessary for the protection of works executed under this Act;

(*h*) all such other works and appliances as may in the opinion of the Commissioners be necessary for carrying out the provisions of this Act.

Power to
make Port
rules.

16. With the previous sanction of the Local Government, the Commissioners may from time to time make rules consistent with this Act and with the Indian Ports Act, 1875, for any of the following purposes (that is to say):—

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river and the works of the Commissioners, and for preventing filth or rubbish being thrown therein or thereon;

(*g*) for

(g) for otherwise carrying out the purposes of this Act.

Such rules, when sanctioned by the Local Government, shall be published in the local official Gazette, and shall thereupon have the force of law.

17. Within the limits of the port, pilots in charge of vessels shall obey all lawful orders issued to them by the Commissioners in respect to such vessels.

Control of pilots within the port.

18. The Commissioners shall make a sufficient number of landing-places within the port, from and upon which the public shall be permitted to embark and land free of charge.

Free public landing-places.

19. The Commissioners may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places (if any) as the Local Government may direct.

Removal of bathing and landing-places.

20. For the expeditious and convenient shipment and landing of goods in and from sea-going vessels within the port, and for the storing of such goods, the Commissioners shall provide and maintain sufficient wharves, quays, stages, jetties, piers, warehouses and sheds, and sufficient servants and appliances, and shall by their servants land and ship all goods from and in any such vessel coming to such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is under any enactment for the time being in force not entitled to have her cargo shipped or discharged: provided that—

Appliances for shipping, &c., for sea-going vessels.

(a) the Commissioners shall not be bound to land, ship or move any single article or package exceeding ten tons or twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package;

(b) the Commissioners may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Commissioners.

21. When

Sea-going
vessels
compelled
to use
wharves,
&c.

21. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing and shipping or for landing or for shipping goods from and in sea-going vessels, the Commissioners may, with the previous sanction of the Local Government, by a notification published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

From and after such publication the Commissioners may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.

If accom-
modation
sufficient,
all sea-going
vessels
compelled
to use
wharves,
&c.

22. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Commissioners may, with the previous sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, direct that no goods shall be landed or shipped from or in any sea-going vessels within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

Inland ves-
sels com-
pelled to use
wharves,
&c.

23. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Commissioners, with sufficient warehouses, sheds and appliances in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels, and that, within

certain

... jetty or pier
... sufficient ware-
... ing and shipping
... from and in sea-
... ay, with the pre-
... ent, by a notifi-
... numbers of the
... wharf, quay,
... ing, landing and
... as the case
... vessels.

Commissioners
... room at such
... to come along-
... pier, for the
... or for landing
... be, any sea-
... commenced
... to take in
... go.

... wharves, quays,
... and appliances
... Commissioners
... Local Gov-
... consecutive
... direct that no
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... jetty or pier
... from or in
... has been made
... with sufficient
... behalf, the
... of the Local
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... declare that
... is ready for
... from or in
... that, within
... certain

certain prescribed limits within the port to be speci-
fied in such order, it shall not be lawful to land or
ship any goods from or in any vessel not being a sea-
going vessel of any class specified in such order,
except at such wharf, quay, stage, jetty or pier, nor
for any such vessel while within such limits to anchor,
fasten or lay within fifty yards of low-water mark
without the consent of the Commissioners.

If after such publication any such vessel, while
within such limits, so anchors, fastens or lays, the
Commissioners may cause the same to be removed
out of the said limits.

The Commissioners may in like manner, with the
like sanction, alter, vary or revoke any such order.

24. The Commissioners may, by notice in writing,
order the master or owner of any vessel to remove
such vessel from any wharf, quay, stage, jetty or pier
belonging to the Commissioners, and, unless such
vessel is removed therefrom within thirty-six hours
after service of such notice on the master or owner
thereof, the Commissioners may charge in respect of
such vessel such sum as they think fit not exceeding
one hundred rupees for each day of twenty-four hours
or portion of such day after the expiry of such thirty-
six hours during which such vessel remains at such
wharf, quay, stage, jetty or pier.

Power to
order removal
of vessels
from wharves,
&c.

25. Notwithstanding anything contained in sec-
tions twenty-one, twenty-two and twenty-three, the
Local Government may, by notification in the local
official Gazette, from time to time permit certain spe-
cified vessels or classes of vessels to discharge or ship
cargo, or certain specified cargo or classes of cargo, at
such part of the port, in such manner, during such
period, subject to such payments, and on such condi-
tions, as the Local Government may think fit, and
otherwise grant exemption from the provisions of
such sections.

Power to
exempt from
obligation to
use wharves,
&c.

The Local Government may also, by like notifica-
tion, cancel or modify any such notification.

26. Whenever any goods are landed by the Com-
missioners

Discharge

of liability
on goods
landed.

missioners from any vessel, the Commissioners shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in schedule B hereto annexed, and may in any such receipt include all goods landed from such vessel during one day. No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Wharves,
&c., to be
appointed
under Customs
Acts.

27. When the Local Government appoints, under the provisions of any Act for the regulation of duties of customs, any wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of sea-going vessels to be a wharf for the landing or shipping, or a warehouse for the storing, of goods within the meaning of such Act, the Commissioners shall set apart, maintain and secure on or in such wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Local Government approves of or appoints in that behalf.

Dues at
customs-
wharves, &c.

28. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse or shed, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, or for the stowage of goods therein, shall be paid and be payable to the Commissioners or to such persons as they may appoint to receive the same.

Private
wharves, &c.,
prohibited.

29. Save as hereinafter provided, no person except the Commissioners shall, after the date on which this Act comes into force, make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Any matter or thing so made, erected or fixed may be removed by the Commissioners, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which
may

Commissioners shall, such vessel a forth in sched- such receipt el during one om which the is given may loss or dam- ter they have

appoints, under tion of duties y, pier, ware- for the use of the landing or ing, of goods Commissioners on or in such house or shed or adjoining systems as the points in that

quay, stage, thereof, has, been set apart dues, rates, this Act in or for the be payable as they may

person except date on which or fix below wharf, dock, uring. ected or fixed ners, and the xed any such ith fine which may

may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing.

30. The Local Government may, by an order in writing, and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Power to permit erection of private wharves, &c., within the port subject to conditions. Wharves, &c., beyond port-limits.

31. In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is, after the date on which this Act comes into force, without the consent in writing of the Local Government, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Commissioners may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

32. The Commissioners shall frame—

Scale of tolls and charges to be framed.

(a) a scale of tolls, dues, rates and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels respectively at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods, and for the use of any mooring ;

(b) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by others than their own servants ; and

(c) a scale of charges for any services to be performed

formed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scales shall be submitted to the Local Government, and, after approval or modification by the Local Government, shall be published by the Commissioners in the local official Gazette.

Subject to the like approval or modification and publication, the Commissioners may, from time to time, alter the said scales.

Every such scale shall be printed in the English and Burmese languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses and sheds.

Commis-
sioners' lien
for tolls and
charges.

33. For the amount of all tolls, dues, rates and charges levied under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien
for freight.

34. If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned

in

Commissioners. [ACT XV

1879.] *Rangoon Port Commissioners.*

their servants in
or for the use of any
ed by the Commis-

in such notice, such goods shall continue liable after
the landing thereof to such lien.

to the Local Gov-
modification by the
ished by the Com-
ette.

Such goods shall be retained either in the ware-
houses and sheds of the Commissioners or, with the
consent of the Chief Officer of Customs, in the public
warehouses, at the risk and expense of the owners of
the said goods, until the lien is discharged as herein-
after mentioned.

or modification and
nay, from time to

35. Upon the production to any officer appointed
by the Commissioners in that behalf of a document
purporting to be a receipt for, or a release from, the
amount of such lien, executed by the person by or on
whose behalf such notice has been given, the Commis-
sioners may permit such goods to be removed without
regard to such lien: provided they shall have used
reasonable care in respect to the authenticity of such
document.

Discharge of
ship-owners'
lien for
freight.

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aspect of any goods,
lien on such goods,
l detain the same
l charges are fully

36. Whenever goods have, without any default
on the part of the Commissioners, been left for two
clear days on or in any wharf or shed belonging to
the Commissioners, the Commissioners may cause
such goods to be removed either to any warehouse
belonging to them, or, with the consent of the Chief
Officer of Customs, to the public warehouses; and
the removal to and detention in any such warehouse
shall be at the risk and expense of the owners of the
said goods.

Goods may
be removed
to ware-
houses.

in respect of goods
immediately on the
spect of goods to be
Commissioners or
payable before the

Whenever any goods are so removed, the Commis-
sioners shall give notice to the consignee or owner of
such goods of such removal, if his address be known,
by letter sent by post to such address or left thereat;
and shall also publish in the local official Gazette and
in two local newspapers notice of such removal, and
shall specify therein the numbers, marks and descrip-
tions of such goods so far as the same appear; and
the consignee or owner of such goods, in addition to
the expenses of the removal of the same, shall be liable,
in case the goods are removed to any warehouse of the
Commissioners, to a charge for warehousing for the
time during which the goods shall remain in the said
warehouse.

rates and charges
liens and claims,
and general average
in the manner
money payable to
State for India in
being in force.
of any vessel, at or
such vessel of any
or pier, gives
that such
freight, prim-
be mentioned
in

If the goods are removed to the public warehouses, the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and shall be subject to the power of sale hereinafter given.

Recovery of
tolls and
charges by
sale of goods.

37. If the tolls, dues, rates and charges payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien for freight, primage or general average where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the local official Gazette and in two local newspapers.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or
such

the public warehouses, shall be liable to the same as such public warehouses remain subject to all the same as if they had been liable if they had been the Commissioners, or of sale hereinafter

and charges payable of any goods under the lien for freight, where such notice as aforesaid is discharged, the Commissioner event, if required to discharge such lien for freight, shall, at the time when the goods are sold by public auction thereof as may be directed hereinafter in respect of such sale.

seven days' notice of the sale thereof in the local newspapers.

If the goods have been taken on board or in any of the hands of the vessel, notice shall be given to the goods by letter sent by the post; but if such goods shall be taken on board the omission to send notice to the purchaser be bound to do so.

If the goods are of so perishable a nature that the officer appointed to receive them, to render early notice, if advisable, the Commissioner shall not be less than five days of the goods as aforesaid, or of the said goods or of such

such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.

38. The proceeds of every such sale shall be applied as follows:—

Application of sale-proceeds.

- (a) in payment of the expenses of the sale;
- (b) in payment, according to their respective priorities, of the liens and claims excepted in section thirty-three from the priority of the lien of the Commissioners;
- (c) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same: provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Commissioners why such application was not so made; and, in case such application shall not be so made nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

39. If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Commissioners may apply to the Collector of Customs of the port, and such Collector shall detain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners is paid;

Recovery of tolls and charges by distraint of vessel.

and, in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds

ceeds of such sale, shall satisfy such tolls, dues, rates, charges or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till tolls, &c., are paid.

40. If the Commissioners give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel, in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Compensation for damage to property of Commissioners.

41. In case any damage or mischief is done to any wharves, docks, quays, jetties, stages, piers or works constructed or acquired by the Commissioners under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, any Magistrate of the town of Rangoon may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Commissioners out of the proceeds of the distress: provided that if, at the time

of

of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the Pilot Service or the Harbour-Master's or Master-Attendant's Department, the case shall not be cognizable by the Magistrate under this section.

42. The Commissioners shall provide such sums as the Local Government may from time to time require for the establishment and maintenance of Police, to be called "River Police," for the protection of the port, the approaches to the port and the river. Such sums shall be a first charge on any property vested in, and on any moneys paid or payable to, the Commissioners under this Act.

The River Police shall be enrolled under Act No. V of 1861 (*for the Regulation of Police*).

43. The Local Government may, from time to time, delegate to the Commissioners all or any of the powers conferred on the Chief Commissioner of British Burma within the port under the Burmese Steamer Survey Act, 1871, and may at any time resume the same.

CHAPTER IV.

OF THE GENERAL CONTROL OF GOVERNMENT.

44. All acts and proceedings of the Commissioners shall be subject to the approval of the Local Government; and the Local Government may cancel, suspend or modify any such acts or proceedings, and may grant exemption from the payment of any tolls, charges, dues or rates leviable under this Act.

45. The Local Government may from time to time make rules consistent with this Act as to the cost and class of works which the Commissioners may execute, and the objects to which the receipts of the Commissioners shall be applied.

46. The Local Government may at any time order a survey and examination of any works of the Commissioners under this Act, or the site thereof, and the

cost

cost of such survey or examination shall be borne and paid by the Commissioners.

Local Government may carry out neglected works.

47. If the Commissioners allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work, the Local Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Governor General in Council may revoke powers of Commissioners.

48. If at any time the Governor General in Council is satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Commissioners, the Governor General in Council may, by notification in the *Gazette of India*, to be republished in the local official Gazette, give notice that, unless within six months the Commissioners take measures to the satisfaction of the Governor General in Council for properly accomplishing such purposes, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, the Governor General in Council may, if no such measures to his satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may direct the Local Government to assume such powers; and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Commissioners shall thereupon vest in the Local Government.

CHAPTER V.

OF SUITS BY AND AGAINST THE COMMISSIONERS.

Chairman or Vice-chairman to sue.

49. The Commissioners shall sue and be sued in the name of their Chairman or of their Vice-chairman.

50. No

be borne and

work acquired to fall into commenced ioned, and do overnment in complete such such work to and the cost ommissioners.

neral in Coun- ded to be ac- n and are not the Commis- il may, by no- be republished e that, unless take measures eral in Council es, the powers ioners will, at und revoked.

aforsaid, the no such mea- n by the Com- e withdrawn or Government to uch powers shall ly, and all the all the property ers shall there-

COMMISSIONERS. e and be sued in their Vice-chair-

50. No

50. No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Commissioners; but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts made in manner hereinafter provided.

Commission- ers not per- sonally liable.

51. Every Commissioner shall be liable for any misapplication of money entrusted to the Commission- ers to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Commission- ers liable for breach of trust.

52. No suit shall be brought against the Com- missioners or any of their officers, or any person acting under their direction, for anything purporting to be done under this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Limitation of suits.

Unless such notice be proved, the Court shall dis- miss the suit.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given before suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

53. The Commissioners shall not be answerable for any act or default of any Master-Attendant or Harbour-Master, or of any Pilot, or of any deputy or assistant of any of the officers above-mentioned, or of any person acting under the authority or direction of any such officer or assistant, done within the limits of the port; nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the said limits which may be used by such vessel:

Indemnity to Commis- sioners for acts of Har- bour-Master, &c.

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any act done by or under their express order or sanction.

CHAPTER VI.

OF MEETINGS, ESTABLISHMENT, CONTRACTS AND THE GENERAL CONDUCT OF BUSINESS.

A Commissioner may be secretary.

54. The Commissioners may, if they think fit, elect one of their number to be secretary to the Commissioners.

Seal and place of business.

55. The Commissioners shall have a common seal inscribed "Port Commissioners, Rangoon," and an office where the Commissioners shall meet for the transaction of business.

Monthly meetings and remuneration for attendance.

56. The Commissioners shall meet for the transaction of business at least once in every month; and for attendance at every such meeting the Commissioners shall, subject to such conditions as the Local Government may from time to time prescribe, receive such fees as the Local Government may from time to time direct: provided that such fees shall not be given for attendance at such meetings oftener than once a month.

Chairman and Vice-chairman to attend.

57. The Chairman and Vice-chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners.

Ordinary and special meetings.

58. The Chairman, or, in the event of his illness or absence from Rangoon, the Vice-chairman, may whenever he thinks fit, and shall upon a requisition made in writing by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.

Meetings so convened are special meetings; all other meetings are ordinary meetings.

Notice of meetings.

59. At least three days' notice shall be given of every meeting of the Commissioners, and the notice shall state the nature of the business to be transacted.

Conduct of business at meetings.

60. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:—

(a) the Chairman, or, in his absence, the Vice-chairman, shall be President; if both be absent, the Commissioners

Commissioners may elect one of their number to be President :

(b) the President may, with the consent of the meeting, adjourn the meeting from time to time ;

(c) at special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called ; at ordinary meetings any business may be transacted of which due notice has been given ;

(d) the quorum necessary for the transaction of business shall be such number, not less than five, as the Commissioners may from time to time prescribe ;

(e) all questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote ; and, in case of equality of votes, the President shall have a second or casting vote ;

(f) minutes of the proceedings at all meetings of the Commissioners shall be drawn up after each meeting and shall be signed by the President and at least one other member who was present at such meeting ; a copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Secretary to the Local Government.

61. The Commissioners may appoint one or more of their number to carry out their resolutions, and to enforce any of the rules made under the provisions of this Act, or they may appoint a special officer for such purpose.

Mode of giving effect to resolutions.

62. No proceedings of the Commissioners at any special or ordinary meeting shall be deemed invalid solely by reason of defect of notice or defect of form.

Proceedings not invalidated by defect of form.

63. The Commissioners shall from time to time prepare and submit to the Local Government a schedule setting forth the number of officers and servants necessary for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants. The Local Government may sanction such schedule, or modify and sanction the same. Every such schedule

Schedule of establishment.

so sanctioned shall remain in force till some other such schedule has been so prepared and sanctioned.

It shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in such schedule, nor to pay or allow to any officer or servant any salary, allowance or fee greater than, or beyond, that sanctioned therein.

Nothing in this section applies to artizans, porters or labourers.

Commissioners are public servants.

64. The Commissioners and the servants of the Commissioners other than artizans, porters and labourers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Commissioners may make bye-laws.

65. The Commissioners may from time to time make bye-laws consistent with this Act for regulating the time and place of their meetings, the conduct of their business, the division of the duties among themselves, the guidance of persons employed by them, the appointment, payment, leave, suspension and removal of their officers and servants mentioned in the schedule last aforesaid, and for other similar matters.

The making of contracts.

66. Such one of their number as the Commissioners may from time to time, with the previous sanction of the Local Government, appoint in this behalf may, for and on behalf of the Commissioners, enter into any contract whereof the value or amount shall not exceed two hundred rupees, in such manner and form as, according to the law for the time being administered in Rangoon, would bind him if such contract were on his own behalf; but every other contract by or on behalf of the Commissioners shall be in writing and signed by the Chairman or Vice-chairman and by two other Commissioners, of whom one shall be an *ex officio* Commissioner, and shall be sealed with the common seal of the Commissioners: provided that no contract under or by virtue of which a sum greater than ten thousand rupees may in any event be payable by the Commissioners shall be valid without

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without the assent in writing of the Local Govern- ment.

No contract not executed as in this section pro- vided shall be binding on the Commissioners.

67. No new work the estimated cost of which exceeds five hundred rupees shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such work, until a plan and estimate thereof has been approved by the Commissioners at a meeting.

Manner in which work to be sanc- tioned.

In case the estimated cost of such new work ex- ceeds five thousand rupees, it shall not be commenced, nor shall any contract be entered into in respect of it, until such plan and estimate have been submitted to the Local Government and sanctioned by it in an order published in the local official Gazette.

And, in case the estimated cost of any such work exceeds fifty thousand rupees, the Local Government shall not sanction the same until such plan and esti- mate have been submitted to the Governor General in Council and approved by him.

68. All moneys raised by and paid to the Commis- sioners under this Act shall be kept in the Bank of Bengal in Rangoon, and no disbursement of such funds, or any part thereof, shall be made—

Money to be kept in Bank.

(a) in excess of such sum as may in that behalf be from month to month appropriated by the Com- missioners at a meeting; or

(b) except under the signature of the Chairman or Vice-chairman.

69. The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit in such form and at such time as the Local Govern- ment may from time to time direct—

Submission of reports, accounts and estimates.

(a) statements of their receipts and disbursements under this Act;

(b) reports of all works executed and proceedings taken by them under this Act;

(c) an estimate of their probable receipts for the financial

financial year next following, with proposals for the expenditure of the same.

Audit of accounts and sanction and publication of estimates.

70. The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may from time to time direct; and, subject to the provisions of this Act, the estimate of probable receipts, and the proposals for expenditure as aforesaid, may on submission be sanctioned by the Local Government, or may be modified or altered and sanctioned.

An abstract of such estimates and proposals shall, when sanctioned, be published in the local official Gazette.

CHAPTER VII.

PENALTIES.

Commissioners not to be interested in contract, &c.;

71. Any Commissioner or servant of the Commissioners who directly or indirectly lends money to the Commissioners, or becomes interested in any contract made by, or on behalf of, the Commissioners, or participates, or agrees to participate, in any profits of any work done by order or on behalf of the Commissioners, shall forfeit his office or employment, as the case may be, and shall be incapable afterwards of being a Commissioner or holding employment under the Commissioners, and shall further be punished with fine which may extend to five hundred rupees :

but may be shareholder in a Company so interested.

Provided that no Commissioner or servant of the Commissioners shall be liable to a penalty under this section solely by reason of his being a shareholder in any duly incorporated or registered Company which may lend money to, or make contracts with, or do work for or on behalf of, the Commissioners.

Infringement of section 21, 22, 23, 25 or 30.

72. Whoever infringes any order issued under section twenty-one, twenty-two or twenty-three, or any condition prescribed under section twenty-five or thirty, shall be punished with fine which may extend to one hundred rupees ; and, if the infringement be continuing, with a further fine which may

extend

Commissioners. [ACT XV

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extend to one hundred rupees for every day such
order is infringed.

73. Whoever infringes any rule framed by the
Commissioners under section sixteen shall be liable to
a fine which may extend to fifty rupees; and, if the
infringement be continuing, to a further fine which
may extend to ten rupees for every day after notice
of such infringement has been given by the Commis-
sioners.

Infringement
of rules.

74. Whenever any person is sentenced to a fine
under this Act, the convicting Court may direct that,
in default of payment of the fine, such person shall
suffer simple imprisonment for a term which shall not
exceed the following scale:—

Punishment
in default of
fine.

(a) two months in the case of continuing infringe-
ment of section twenty-nine;

(b) one month in the case of continuing infringe-
ment of sections twenty-one, twenty-two and twenty-
three;

(c) fourteen days if the fine does not exceed fifty
rupees;

(d) one month if the fine does not exceed one
hundred rupees;

(e) two months if the fine exceeds one hundred
rupees.

75. Prosecutions under this Act may be instituted
by the Commissioners or any person authorized by
them in this behalf and not otherwise.

Prosecutions.

CHAPTER VIII.

MISCELLANEOUS.

76. All acts done and proceedings taken by the
Strand Bank Committee before this Act comes into
force, and all orders, rules and regulations relating to
the port and to wharves, quays, stages, jetties, piers,
landing-places, tolls, charges, rates and dues within
the port made and issued before this Act comes into
force, shall, whenever such acts, proceedings, orders,
rules or regulations would have been lawful if this

Saving of
previous port-
regulations.

Act

Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Receiving of
dues as reve-
nue.

77. All fees and sums due on account of property for the time being vested in the Commissioners, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered as if they were arrears of land-revenue, in addition to the other modes hereinbefore provided.

SCHEDULE A.

(Referred to in section 11).

I.—All the land belonging to Government between the river on the south and the Strand Road and the Monkey Point Battery Road on the north, but not including those roads, from Monkey Point on the east to and including the Canal on the west, except—

(a) the land occupied by the Municipality of Rangoon;

(b) the land occupied by the Military Authorities as an approach to Godwin's wharf and to an extent of 100 feet on either side thereof;

(c) the land occupied by the Military Authorities for the defences at Monkey Point;

(d) the land assigned for railway-purposes;

(e) the land occupied on the east side of East Street by the Department of Public Works;

(f) the land occupied by Customs-officers' quarters and by the Master-Attendant's residence, office and compound.

II.—All other land belonging to Government within the limits of the present Port of Rangoon lying within a line drawn at fifty yards from high-water mark, except—

(a) the land occupied by the Rangoon Gaol saw-mill;

(b) the land occupied as Government timber-depôts at Ahlone and Monkey Point;

(c) the

Commissioners. [ACT XV

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Government with-
of Rangoon lying
from high-water

Rangoon Gaol saw-

Government timber-

(c) the

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(c) the Dalla Dockyard and the lands attached
thereto.

SCHEDULE B.

(Referred to in section 26).

RECEIPT FOR GOODS.

By the Port Commissioners, Rangoon.

Landed during the _____ day of _____
from the _____, by the Port Commissioners,
Rangoon, the _____ noted in the margin ; con-
tents and state of the contents unknown.

NOTE.—*If there be any apparent injury, this is to
be stated.*

For the Port Commissioners, Rangoon.

The RANGOON ; } A. B.
day of . }

ACT No. XVI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 30th September, 1879).

An Act to restrict the transport of Salt by Sea.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; Preamble.
It is hereby enacted as follows:—

1. This Act may be called "The Transport of Salt Act, 1879": Short title.

It extends to the western coast of British India north of Cochin and to the sea within a distance of a marine league from such coast; Local extent.

and it shall come into force at once. Commence-
ment.

2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both. Penalties for
carrying salt
in certain
vessels.

3. Nothing in section two applies to Exceptions.

(a) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a rawána granted under Madras Regulation I of 1805, section eleven, clause third;

(b) salt covered by a pass granted by any officer whom the Governor of Bombay in Council may appoint in this behalf;

(c) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor

of

(The Governor of Bombay in Council)

of Bombay in Council may, from time to time, exempt from the operation of section two.

Power of
stoppage,
search and
arrest.

4. When any officer empowered by the Governor of Bombay in Council, whether by name or office, to act under this section has reason to believe, from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section two, he may require such vessel to be brought-to, and thereupon may

(a) enter and search the same;

(b) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(c) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India; and

(d) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section two.

Penalties for
resisting
officer.

5. Any master of a vessel refusing or neglecting to bring-to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Confiscation
of vessel and
cargo.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section two, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

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The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged by the Chief Customs Authority, or by such other officer as the Local Government may, from time to time, appoint in this behalf.

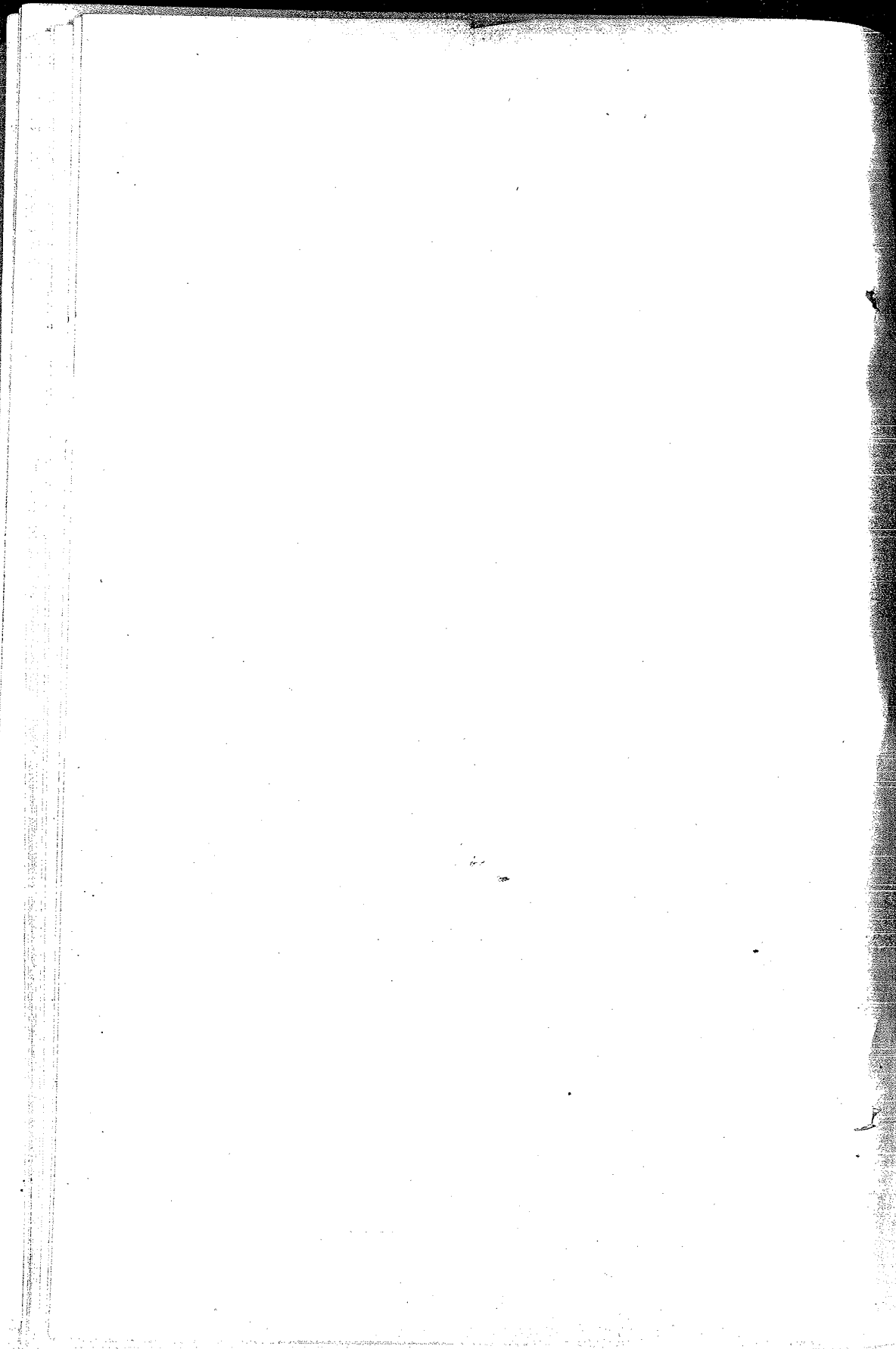
Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such enquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. For the purpose of the adjudication of penalties under section two or section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Jurisdiction.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.

Power to exempt from operation of Act.



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THE DEKKHAN AGRICULTURISTS' RELIEF ACT, 1879.

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[Price eight annas.]

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Government or any
rules.

ACCOUNT.

Receipts:

to time in a pass-

64 to 66.

agriculturist.

written.
registered.

agriculturist, final.
Subordinate Judges'

ACT No. XVII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th October, 1879).

An Act for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Dekkhan Agriculturists' Relief Act, 1879": Short title.

and it shall come into force on the first day of November, 1879. Commencement.

Sections eleven, fifty-six, sixty and sixty-two extend to the whole of British India. The rest of this Act extends only to the districts of Puna, Satára, Sholapur and Ahmadnagar. Local extent.

2. In this Act, unless there is something repugnant in the subject or context,— Interpretation-clause.

(1) "money" includes agricultural produce, implements and stock: "money:"

(2) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts; and every agriculturist shall be deemed to "reside" where he so earns his livelihood. "agriculturist."

CHAPTER II.

CHAPTER II.

OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

Application
of this
chapter.

3. The provisions of this chapter shall apply to—

(a) suits for an account instituted on or after the first day of November, 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (b) are the following (namely):—

(w) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for;

(x) suits for the recovery of money due on contracts other than the above and suits for rent or for
moveable

BY SUBORDINATE

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moveable property, or for the value of such property,
or for damages; and

(y) suits for foreclosure or for the possession of
mortgaged property, or for sale of such property, or
for foreclosure or sale, when the defendant, or any
one of the defendants not being merely a surety for
the principal debtor, is an agriculturist; and

(z) suits for the redemption of mortgaged pro-
perty when the plaintiff, or, where there are several
plaintiffs, any one of the plaintiffs, is an agriculturist.

4. Where a Subordinate Judge of the first class
and a Subordinate Judge of the second class have
ordinary jurisdiction in the same local area, every
suit referred to in section three, clause (b), and insti-
tuted in such local area shall, if the amount or value
of the subject-matter of such suit exceeds one hun-
dred rupees and does not exceed five hundred rupees,
be instituted in the Court of the Subordinate Judge
of the first class.

Certain suits
to be
instituted in
Courts of
first class
Subordinate
Judges.

5. Notwithstanding anything contained in the
Bombay Civil Courts Act, 1869, section 28, no Sub-
ordinate Judge shall be invested with the jurisdiction
of a Judge of a Court of Small Causes; and any such
jurisdiction heretofore conferred on any Subordinate
Judge shall be deemed, except as regards suits insti-
tuted before the said first day of November, 1879, to
have been withdrawn.

Subordinate
Judges not
to act as
Judges of
Small Cause
Courts.

6. The Local Government may, from time to
time, by notification in the local Gazette, direct that
any class of suits which a Subordinate Judge would
be precluded from hearing by section 12 of Act XI of
1865 (to consolidate and amend the law relating to
Courts of Small Causes beyond the local limits of the
ordinary original civil jurisdiction of the High Courts
of Judicature), shall be heard and determined by him
and not otherwise, and may, by a like notification,
cancel any such direction.

Jurisdiction
of Subordi-
nate Judge
and Small
Cause Court.

7. In every case in which it seems to the Court
possible to dispose of a suit at the first hearing,
the summons shall be for the final disposal of the
suit.

Summons to
be for final
disposal of
suit.

In

Court to examine defendant as witness.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do.

Written statements.

8. In suits of the descriptions mentioned in section three, clauses (*w*) and (*x*), no party shall be entitled without the permission of the Court to file a written statement.

Record of evidence.

9. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

No appeal to lie.

10. No appeal shall lie from any decree or order passed in any suit to which this chapter applies.

CHAPTER III.

OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

Agriculturists to be sued where they reside.

11. Every suit of the description mentioned in section three, clause (*w*), may, if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides and not elsewhere.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

History of transactions with agriculturist-debtors to be investigated.

12. In any suit of the description mentioned in section three, clause (*w*), in which the defendant or any one of the defendants, not being merely a surety of the principal debtor, is an agriculturist,

and in any suit of the descriptions mentioned in section three, clause (*y*) or clause (*z*),

the

ef. [ACT XVII

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1879.] *Dekkhan Agriculturists' Relief.*

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim, out of which the suit has arisen, first, with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted the Court shall be bound to enquire as aforesaid.

Section IX, clause first, of Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall—

Mode of
taking ac-
count.

notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting-off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account

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account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken :

(b) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor as part of the transactions :

(c) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure :

(d) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable :

(e) in the account of interest there shall be debited to the debtor, monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided :

(f) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine) shall be credited first in the account of interest ; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(g) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall

shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceeds that appearing due on the principal-account, in which case double the latter balance shall be deemed to be the amount then due.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

Interest to be allowed.

(a) the rate, if any, agreed upon between the parties, or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or, when any agreement between the parties, or the persons (if any) through whom they claim, to set-off profits without an account in lieu of interest has been set aside by the Court, such rate as the Court deems reasonable.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that such amount be ascertained by arbitration.

Reference to arbitration in certain cases.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them: if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit:

Provided that if all the parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

16. Any agriculturist may sue for an account of money

Agriculturist-

money

debtors may sue for accounts.

money lent or advanced to or paid for him by a creditor, or due by him to the creditor as the price of goods sold, or on a written or unwritten engagement for the payment of money, and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor.

Amount of debts in such cases to be determined according to foregoing provisions.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had sued him for recovery of the debt.

Decree under section 16 may provide for payment by instalments.

17. A decree passed under section sixteen may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained a decree in a suit to recover the debt.

Execution of decrees under this section.

Payment into court in cases under section 16.

18. The plaintiff in any suit instituted under section sixteen may at any stage of such suit deposit in court such sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Power to discharge judgment-debtor.

19. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, either in the course of execution of such decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of such portion of the same as it considers him

for him by a creditor as the price of written engagement money paid by him declaring the amount, creditor.

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on sixteen may, direct that such with or without so directs, the decree, or the such decree, as thereof execution defendant in the decree in a suit

anted under section deposit in a satisfactorily against him. by the Court the deposit shall be paid to the

defendant on the receipt of he in full of

ed, whether be, under which verable from an in the course of if it is satisfied him and that he sum, direct the as it considers him

him able to pay, and grant him a discharge from the balance.

When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other debts due by the debtor which together with such sum amount to fifty rupees or upwards, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

Power to direct institution of insolvency-proceedings.

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist, or the portion of the same which it directs under section nineteen to be paid, shall be paid by instalments with or without interest.

Power to fix instalments in execution.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money.

Arrest and imprisonment in execution of decree for money abolished.

22. No agriculturist's immoveable property shall be attached or sold in execution of any decree or order unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists.

Immoveable property exempted from attachment and sale unless specifically pledged.

But the Court may, when passing a decree against an agriculturist or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decreeholder in manner provided by section twenty-nine.

The provisions of section thirty-one shall, *mutatis mutandis*, apply to any property so dealt with.

23. No provision of this chapter shall apply to the proceedings in the Courts of Village-Munsifs unless

Chapter not to apply to Village-Munsifs' Courts.

such

such provision has been specially extended thereto under the power hereinafter conferred.

CHAPTER IV.
OF INSOLVENCY.

Subordinate Judges to have jurisdiction in agriculturists' cases.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section nineteen; and, except as provided in chapter VII of this Act, no such application or proceeding shall be dealt with by any other Court.

Agriculturists may apply for adjudication in cases not provided for by Code.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

Modification of section 351 of the Code.

26. Notwithstanding anything contained in section 351 of the Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-five of this Act.

Receiver.

27. No person other than the Názir of the Court shall be appointed as Receiver, and no Receiver shall be entitled to commission.

Proof of debts.

28. In determining under section 352 of the said Code the amount of any claim of the nature referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to fifteen of this Act, both inclusive.

29. No

29. No immoveable property of the insolvent shall vest in the Receiver; but the Court may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the Receiver has been appointed, any immoveable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors by letting it on lease or otherwise :

Immoveable property not to vest in Receiver, but may be managed for benefit of creditors.

Provided that, if the insolvent or his representative in interest at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government except the powers mentioned in the Bombay Land-Revenue Code, 1879, section 150, clauses (b), (d) and (e).

Nothing in this section shall authorize the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immoveable property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the Code of Civil Procedure.

Secured debts.

Where

Where property is let under this section, the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the Receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale-proceeds shall be applied, first, to the payment of the debt, and the balance, if any, shall be paid to the Receiver.

Insolvent incompetent to sell, &c., property dealt with under sections 29 and 30.

31. So long as any management under section twenty-nine or letting under section thirty continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let, or any part thereof.

Scheduled debts discharged.

32. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section twenty-nine, or let by him under section thirty.

Appeals barred.

33. No appeal shall lie from any order passed under this chapter except orders passed in exercise of the power conferred by section 359 of the Code of Civil Procedure.

CHAPTER V.

OF VILLAGE-MUNSIFS.

Appointment of Village-Munsifs.

34. The Local Government may, from time to time, appoint any Pátel of a village or any other person possessing local influence in a village to be a Village-Munsif for such village or for such village and for any other villages the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

Suits triable by them.

35. Every Village-Munsif so appointed shall take cognizance of suits of the description mentioned in section

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section three, clause (w), when the subject-matter thereof does not exceed ten rupees in amount or value, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-Munsif is appointed.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-Munsif shall not be heard by any other Court:

Jurisdiction of other Courts excluded.

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-Munsif to his own Court or any other civil Court in the district for trial:

Proviso.

Provided also that no Village-Munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

36. The District Judge may, on a petition being presented within thirty days from the date of any decree or order of a Village-Munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif and pass such other decree or order as he thinks fit.

District Judge's power of revision.

Except as provided in this Act and in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

37. The Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act for regulating the procedure of Village-Munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

Power of Local Government to make rules.

CHAPTER VI.
OF CONCILIATION.

38. The Local Government may, from time to time,

Appointment time,

of Conciliators.

time, appoint any person other than an officer of Police to be a Conciliator and may cancel any such appointment.

Every Conciliator appointed under this section shall be appointed only for a term not exceeding three years, but may on the expiration of the period for which he has been appointed be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the Local Government may, from time to time, prescribe.

Matters which may be brought before Conciliator.

39. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a civil Court between two or more parties one of whom is an agriculturist residing within any local area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force, is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them.

Procedure thereupon.

40. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a concise statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place.

Day for attendance may from time to time be postponed.

If such person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

When all parties appear, Conciliator to endeavour

41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable

amicable settlement or to submit such matter to arbitration.

to reconcile them.

42. The Conciliator shall hear but shall not record the statement of any witness, and shall peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and, if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to affect any third person, shall provide for such oath being duly taken in the presence of all the parties.

Conciliator to hear statements of witnesses, &c.

43. If on the day on which the case is first heard by the Conciliator, or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

Any agreement arrived at to be reduced to writing.

Explanation.—A Conciliator may be appointed arbitrator under this section.

44. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides;

Procedure when agreement finally disposes of case.

and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the date of such delivery, why such agreement ought not to be filed in such Court.

The Court which receives the agreement shall, after the expiry of the said period of one month, unless cause has been shown as aforesaid, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it

Procedure where agreement is for

to

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reference to arbitration.

to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

Certificate to be given to applicant if conciliation fails.

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect.

Suit, or application for execution, not to be entertained by civil Court unless such certificate is produced.

47. No suit, and no application for execution of a decree passed before the date on which this Act comes into force, to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party, shall be entertained by any civil Court unless the plaintiff produces such certificate as aforesaid in reference thereto.

Allowance to be made in period of limitation.

48. In computing the period of limitation prescribed for any such suit the time intervening between the application made by the plaintiff under section thirty-nine and the grant of the certificate under section forty-six shall be excluded.

Local Government to make rules.

49. The Local Government may from time to time make rules—

(a) regulating the procedure before Conciliators in matters not provided for by this Act;

(b) fixing the charges to be made by Conciliators for anything done by them under this chapter; and

(c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

CHAPTER VII.

SUPERINTENDENCE AND REVISION.

District

50. The District Judge shall inspect, supervise and

and control the proceedings, under chapter II and chapter IV of this Act, of all Subordinate Judges and the proceedings of all Village-Munsifs and Conciliators.

Judge to inspect, &c.

51. The District Judge may—

District Judge may withdraw case from Subordinate Judge,

(a) transfer to his own file any suit or other matter pending before the Court of any Subordinate Judge under chapter II or chapter IV of this Act, and may dispose of the same as if he were a Subordinate Judge; or

(b) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

or sit with Subordinate Judge as a Bench for trial of any case.

If the members of any Bench sitting under this section differ in opinion, the opinion of the District Judge shall prevail.

52. The Local Government shall appoint an Assistant or Subordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges, under chapter II and chapter IV of this Act, and of all Village-Munsifs and Conciliators in each of the said districts of Puna, Satara, Sholapur and Ahmadnagar :

Appointment of Assistant or Subordinate Judge to aid District Judge.

Provided that, if the Local Government thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts.

Any Assistant or Subordinate Judge appointed under this section may in any district for which he is so appointed, if the District Judge so directs, exercise the powers of the District Judge under section fifty-one of this Act, and transfer any suit under section twenty-five of the Code of Civil Procedure.

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under chapter II or chapter IV of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit ;

Of revision.

and

Dekkhan Agriculturists' Relief. [ACT XVII

and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-two may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and, if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge, and the District Judge may pass such decree or order on the case as he thinks fit :

Provided that no decree or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

Special
Judge.

54. The Local Government from time to time may, and if the Government of India so direct shall, appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act in respect of the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators, and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the Government of India, discharge any public function except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section fifty-two, or by a Bench, in any suit or proceeding under this Act.

CHAPTER VIII.

REGISTRATION BY VILLAGE-REGISTRARS.

Appointment
of Village-
Registrars.

55. The Local Government may, from time to time,—

(a) appoint such persons as it thinks fit, whether public

public officers or not, to be Village-Registrars for such local areas as it may, from time to time, prescribe ;

(b) direct the Village-Registrar for any local area to discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas ; and

(c) delegate to any person, by name or in virtue of his office, the powers conferred on it by this section ;

and may cancel any such appointment, direction or delegation.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-Registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer, unless such instrument is written by, or under the superintendence of, and is attested by, a Village-Registrar :

Instruments executed by agriculturist not to be deemed valid unless executed before a Village-Registrar.

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

57. When any persons, one of whom is an agriculturist residing in any such local area, desire to execute any such instrument, they shall present themselves before the Village-Registrar appointed by the Local Government for the area in which such agriculturist, or, when there are several such agriculturists, any one of such agriculturists, resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties and receiving from them the fee (if any) prescribed by the Local Government in this behalf and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence, and after reading the same aloud

Such instruments to be written by or under the superintendence of a Village-Registrar and executed in his presence.

or causing it to be so read in the hearing of the parties shall require them to execute it in his presence.

Attestation of such instruments.

Every instrument so written and executed shall at the time of execution be attested by the Village-Registrar, and also, if any of the parties thereto is unable to read such instrument, by two respectable witnesses.

Registration of instruments by Village-Registrars.

58. Every Village-Registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration.

As soon as all the parties to any instrument have executed it before a Village-Registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village-Registrar and the volume and page of the register in which the instrument has been registered.

Consideration to be fully stated in every instrument executed before a Village-Registrar.

59. In every instrument written by, or under the superintendence of, the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

Previous instruments to be produced.

If the instrument modifies, or wholly or partly supersedes, a previous instrument, such previous instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his hand for identification.

Registration under this Act to be deemed equivalent to

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877; and no instrument

instrument which ought to have been executed before a Village-Registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

registration under Indian Registration Act, 1877.

61. The Inspector-General of Registration shall exercise, by himself and his subordinates, a general superintendence over all Village-Registrars, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

Village-Registrars to be subordinate to the Inspector-General of Registration.

62. Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party, to be executed before a Village-Registrar.

Exemption of instruments to which Government or any officer of Government is a party. Power of Local Government to make rules.

63. The Local Government may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

CHAPTER IX.

OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment.

Agriculturists entitled to written receipts

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the Local Government, having regard to local custom, may from time to time, by notification in the official Gazette, fix, be entitled to receive, on demand,

To annual statements of account:

from

from the person claiming under such instrument, a statement up to that date of his account under such instrument.

To have account made up from time to time in a pass-book.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section sixty-four, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section sixty-five.

Penalty for contravention of sections 64 to 66.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

CHAPTER X.

LEGAL PRACTITIONERS.

Pleaders, &c., excluded in certain cases.

68. No pleader, vakíl or mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-Munsif, or to any case cognizable by a Subordinate Judge under this Act, the subject-matter whereof does not exceed in amount or value one hundred rupees :

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator, Village-Munsif or Subordinate

Subordinate Judge, to employ any relative, servant or dependent who is not, and has not previously been, a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party :

Provided also that a Subordinate Judge may permit a pleader, vakíl or mukhtár, or an advocate or attorney of a High Court, to appear before him on behalf of any party to any case of the description aforesaid in which, for reasons to be recorded by him in writing, he deems it desirable that the party should have such assistance.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakíl or mukhtár, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may, with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

Power of Court to appoint pleader for agriculturist

CHAPTER XI.

MISCELLANEOUS.

70. No mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Mortgages, &c., to be valid only when written.

Nothing in this section shall apply to any mortgage, lien or charge created by mere operation of law, or in favour of the Government or of any officer of the Government in his official capacity.

71. Every

All mortgages hitherto executed to be registered.

71. Every instrument executed before this Act comes into force and purporting to create any mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be deemed to be an instrument required by section 17 of the Indian Registration Act, 1877, to be registered; and any such instrument which before the passing of this Act was not so required to be registered may, notwithstanding anything contained in the said Indian Registration Act, 1877, be registered under that Act within one year from the date on which this Act comes into force.

Every Village-Registrar appointed under this Act shall be deemed to be a sub-Registrar for the purpose of so registering such instruments; and the local area for which he is appointed shall be deemed for such purpose to be his sub-district.

Nothing in this section applies to an instrument purporting to create a mortgage, lien or charge in favour of the Government or of any officer of the Government in his official capacity.

Limitation.

72. In any suit against an agriculturist under this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say):—

(a) when such suit is based on a written instrument registered under this Act or any law in force at the date of the execution of such instrument,—twelve years;

(b) in any other case,—six years:

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

Decision as to whether person is an agriculturist, final.

73. The decision of any Court of first instance that any person is or is not an agriculturist shall, for the purposes of this Act, be final.

Civil Pro-

74. Except in so far as it is inconsistent with this Act,

rists' Relief. [ACT XVII

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Act,

1879.] *Dekkhan Agriculturists' Relief.*

Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act.

cedure Code
to apply in
Subordinate
Judges'
Courts.

75. The Local Government may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

Additional
power to
make rules.

76. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

Rules to be
published.

18

THE LEGAL PRACTITIONERS ACT, 1879.

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[Price six annas.]

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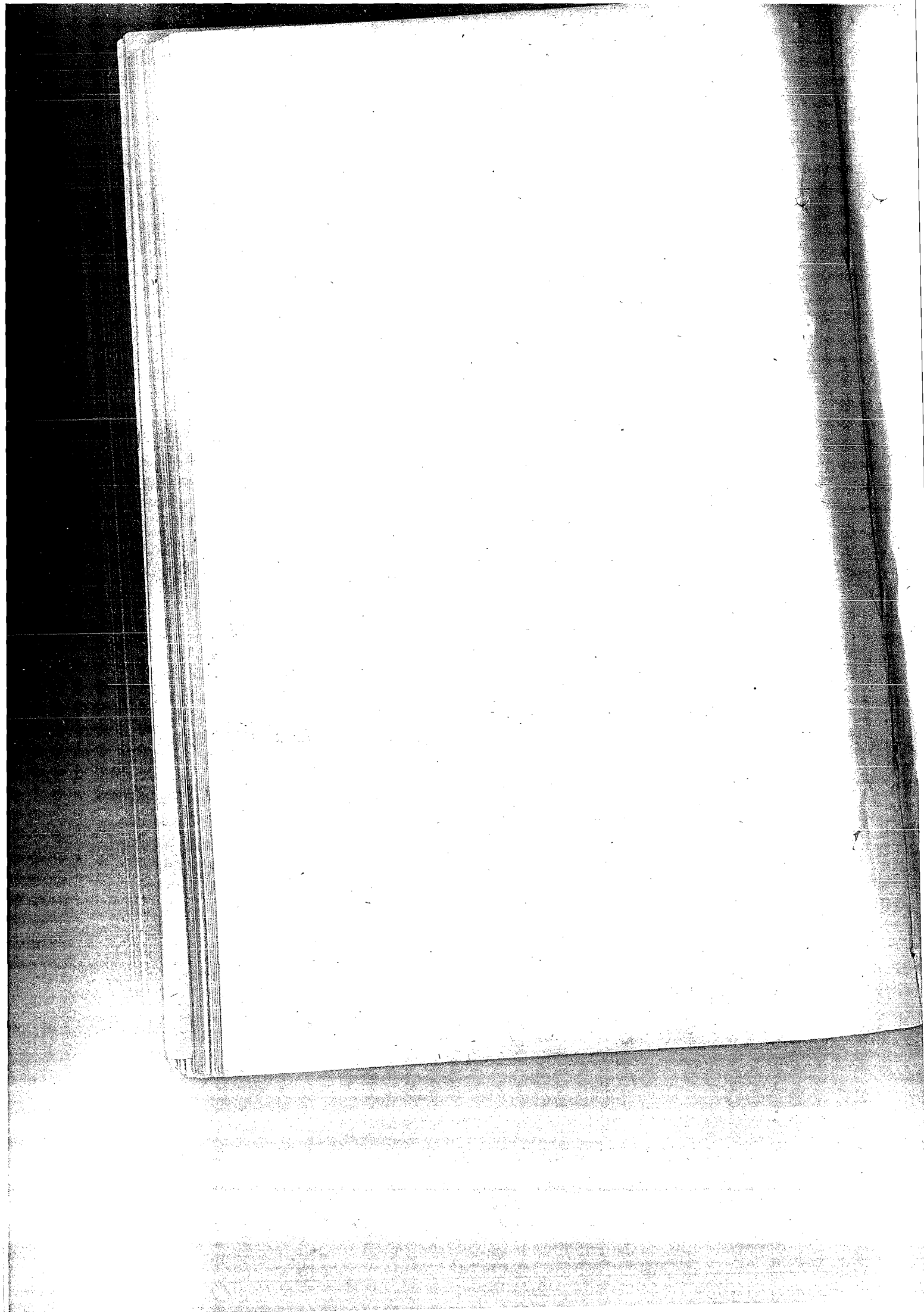
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ACT No. XVIII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th October, 1879.)

An Act to consolidate and amend the law relating to Legal Practitioners.

WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh, the Central Provinces and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows:—

Preamble.

CHAPTER I.—*Preliminary.*

1. This Act may be called "The Legal Practitioners Act, 1879": and shall come into force on the first day of January, 1880.

Short title.
Commence-
ment.

This section and section two extend to the whole of British India.

Local extent.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces and Assam. But any other Local Government may from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

2. On

Repeal of enactments.

2. On and from the first day of January, 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

Saving of rules, &c.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

References to repealed enactments.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act.

Interpretation-clause.

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

“ Judge”:

“ Judge” means the presiding judicial officer in every civil and criminal Court, by whatever title he is designated :

“ Subordinate Court”:

“ Subordinate Court” means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. IX of 1850 or Act No. XI of 1865 :

Revenue-office”:

“ Revenue-office” includes all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents :

“ Legal practitioner.”

“ Legal practitioner” means an Advocate, Vakíl or Attorney of any High Court, a Pleader, Mukhtár or Revenue-agent.

CHAPTER II.—*Of Advocates, Vakíls and Attorneys.*

Advocates and Vakíls.

4. Every person now or hereafter entered as an Advocate or Vakíl on the roll of any High Court under the Letters Patent constituting such Court, or as an Advocate on the roll of the Chief Court of the Panjáb, shall be entitled to practise in all the Courts subordinate to the Court on the roll of which he is entered, and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such Court,

Court, subject, nevertheless, to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court on whose roll he is not entered, or, with the permission of the Court, in any High Court on whose roll he is not entered, and in any Revenue-office :

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction in a Presidency-town.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall be entitled to practise in all the Courts subordinate to such High Court and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such High Court, and every person so entered who ordinarily practises in the Court on the roll of which he is so entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court established by Royal Charter on the roll of which he is not entered and in any Revenue-office.

Attorneys of
High Court.

The High Court of the Province in which an Attorney practises under this section may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of an Attorney so practising.

CHAPTER III.—Of Pleaders and Mukhtárs.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(a) the qualifications, admission and certificates of proper persons to be Pleaders of the subordinate

Power to
make rules
as to qualifi-
cation, &c.,
of Pleaders
and Mukh-
társ.

Courts.

Courts, and of the Révenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;

(b) the qualifications, admission and certificates of proper persons to be Mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;

(c) the fees to be paid for the examination and admission of such persons ; and

(d) the suspension and dismissal of such Pleaders and Mukhtárs.

Publication
of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law : Provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government.

Certificates
to Pleaders
and Mukh-
társ.

7. On the admission, under section six, of any person as a Pleader or Mukhtár, the High Court shall cause a certificate, signed by such officer as the Court, from time to time, appoints in this behalf, to be issued to such person authorizing him to practise up to the end of the current year in the Courts, and, in the case of a Pleader, also the Revenue-offices, specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such Pleader or Mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

8. Every Pleader holding a certificate issued under section seven may apply to be enrolled in any Court or Revenue-office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted ; and, subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue-Authority may, from time to time, make in this behalf, the presiding Judge or officer shall enrol him accordingly ; and thereupon he may appear, plead and act in such Court or office and in any Court or Revenue-office subordinate thereto.

Pleaders on enrolment may practise in Courts and Revenue-offices.

9. Every Mukhtár holding a certificate issued under section seven may apply to be enrolled in any civil or criminal Court mentioned therein and situate within the same limits ; and, subject to such rules as the High Court may from time to time make in this behalf, the presiding Judge shall enrol him accordingly ; and thereupon he may practise as a Mukhtár in any such civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure) appear, plead and act in any such criminal Court and any Court subordinate thereto.

Makhtárs on enrolment may practise in Courts.

10. Except as provided by this Act or any other enactment for the time being in force, no person shall practise as a Pleader or Mukhtár in any Court not established by Royal Charter unless he holds a certificate issued under section seven and has been enrolled in such Court or in some Court to which it is subordinate :

No person to practise as Pleader or Mukhtár unless qualified.

Provided that persons who have been admitted as Revenue-agents before the first day of January, 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal, may be enrolled in manner provided by section nine in any Munsif's Court in the said territories, and on being so enrolled may appear, plead and act in such Court in suits under Bengal Act No. VIII of 1869 (*to amend the procedure in suits*

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII of 1869.

between

between Landlord and Tenant) or under any other Act for the time being in force regulating the procedure in suits between landholders and their tenants and agents.

Power to declare functions of Mukhtárs.

11. Notwithstanding anything contained in the Code of Civil Procedure, the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of Mukhtárs practising in the subordinate Courts, and, in the case of a High Court not established by Royal Charter, in such Court.

Suspension and dismissal of Pleaders and Mukhtárs convicted of criminal offence.

12. The High Court may suspend or dismiss any Pleader or Mukhtár holding a certificate issued under section seven who is convicted of any criminal offence implying a defect of character which unfits him to be a Pleader or Mukhtár, as the case may be.

Suspension and dismissal of Pleaders and Mukhtárs guilty of unprofessional conduct.

13. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss

any Pleader holding a certificate as aforesaid who takes instructions in any case except from the party on whose behalf he is retained, or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or

any Pleader or Mukhtár holding a certificate as aforesaid who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in subordinate Court or Revenue-office.

14. If any such Pleader or Mukhtár practising in any subordinate Court or in any Revenue-office is charged in such Court or office with taking instructions except as aforesaid, or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the Pleader or Mukhtár at least fifteen days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall

shall receive and record all evidence properly produced in support of the charge, or by the Pleader or Mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established and considers that the Pleader or Mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend or dismiss the Pleader or Mukhtár.

Any District Judge, or with his sanction any Judge subordinate to him, any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue-authority not inferior to a Collector, or with the Collector's sanction any Revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practice any Pleader or Mukhtár charged before him or it under this section.

Suspension pending investigation.

Every report made to the High Court under this section shall

(a) when made by any Civil Judge subordinate to the District Judge, be made through such Judge;

(b) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(c) when made by the Magistrate of the District, be made through the Sessions Judge;

(d) when made by any Revenue-officer subordinate to the Chief Controlling Revenue-Authority, be made through such Revenue-authorities as the Chief Controlling Revenue-Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue-authority through whom or which it is made.

15. The High Court, in any case in which a Pleader or Mukhtár has been acquitted under section fourteen otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Power to call for record in case of acquittal under section 14.

16. Notwithstanding

Power to make rules for Mukhtárs on appellate side of High Court.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause (a), any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(a) the qualifications and admission of proper persons to be Mukhtárs practising on the appellate side of such Court;

(b) the fees to be paid for the examination and admission of such persons;

(c) the security which they may be required to give for their honesty and good conduct;

(d) the suspension and dismissal of such Mukhtárs; and

(e) declaring what shall be deemed to be their functions, powers and duties;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

CHAPTER IV.—*Of Revenue-agents.*

Power to make rules as to qualifications, &c., of Revenue-agents.

17. The Chief Controlling Revenue-Authority may, from time to time, make rules consistent with this Act as to the following matters (namely):—

(a) the qualifications, admission and certificates of proper persons to be Revenue-agents;

(b) the fees to be paid for the examination and admission of such persons;

(c) the suspension and dismissal of such Revenue-agents; and

(d) declaring what shall be deemed to be their functions, powers and duties.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

18. On

18. On the admission of any person as a Revenue-agent under section seventeen, the Chief Controlling Revenue-Authority shall cause a certificate, signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in such Revenue-offices as may be specified therein.

Certificates to Revenue-agents.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue-Authority, or by any other officer authorized by such Authority in that behalf.

On every such renewal, the certificate then in the possession of such Revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer and shall continue in force to the end of the current year.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue-Authority.

19. Every Revenue-agent holding a certificate issued under section eighteen may apply to be enrolled in any Revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue-Authority; and, subject to such rules as the Chief Controlling Revenue-Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practise as a Revenue-agent in such office and in any Revenue-office subordinate thereto.

Enrolment of Revenue-agent.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a Pleader duly qualified under the provisions hereinbefore contained, shall practise as a Revenue-agent in any Revenue-office, unless he holds a certificate issued under section eighteen and has been enrolled in such office or some other office to which it is subordinate :

No person to act as agent in Revenue-offices unless qualified.

Provided

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue-Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any Revenue-office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the Authority or officer granting the same.

Dismissal
of Revenue-
agent con-
victed of
criminal of-
fence.

21. The Chief Controlling Revenue-Authority may suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a Revenue-agent.

Dismissal
of Revenue-
agent guilty
of unprofes-
sional con-
duct.

22. The Chief Controlling Revenue-Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure
when Reve-
nue-agent
is so charged
in subordi-
nate office.

23. If any Revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue-Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue-Authority ;
and

and such Authority shall proceed to acquit, suspend or dismiss him.

Any Revenue-officer not inferior to a Collector, and, with the Collector's sanction, any Revenue-officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue-Authority, suspend from practice any Revenue-agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner, who shall forward with the same an expression of his own opinion on the case.

24. The Chief Controlling Revenue-Authority, in any case in which a Revenue-agent has been acquitted under section twenty-three otherwise than by an order of the Chief Controlling Revenue-Authority, may call for the record and pass such order thereon as seems fit.

Power to Chief Controlling Revenue-Authority to call for record.

CHAPTER V.—*Of Certificates.*

25. Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed :

Fee for certificates.

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

26. When any Pleader, Mukhtár or Revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue-Authority (as the case may be) orders him to deliver the same.

Dismissed practitioners to surrender certificates.

CHAPTER VI.—*Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.*

27. The High Court shall, from time to time, fix and

High Court and Chief

Controlling Revenue-Authority to fix fees on civil and revenue-proceedings.

and regulate the fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Mukhtár or Attorney upon all proceedings (a) on the appellate side of such Court, (b) in the case of a High Court not established by Royal Charter, on its original side, and (c) in subordinate Courts.

The Chief Controlling Revenue-Authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the Revenue-offices by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Attorney, Mukhtár or Revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Exception as to agents mentioned in section 20. Agreements with clients.

Nothing in this section applies to the agents mentioned in the proviso to section twenty.

28. No agreement entered into by any Pleader, Mukhtár or Revenue-agent with any person retaining or employing him, respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such Pleader, Mukhtár or Revenue-agent shall be valid unless it is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

Power to modify or cancel agreements.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

Agreements to exclude further claims.

30. Such an agreement shall exclude any further claim of the Pleader, Mukhtár or Revenue-agent beyond the terms of the agreement with respect to any services, fees, charges or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such services

services, fees, charges or disbursements, if any, as are expressly excepted by the agreement.

31. A provision in any such agreement that the Pleader, Mukhtár or Revenue-agent shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such Pleader, Mukhtár or Revenue-agent, shall be wholly void.

Reservation of responsibility for negligence.

CHAPTER VII.—Penalties.

32. Any person who practises in any Court or Revenue-office in contravention of the provisions of section ten or section twenty shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding ten times the amount of the stamp required by this Act for a certificate authorizing him so to practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

On persons illegally practising as Pleaders, Mukhtárs or Revenue-agents.

He shall also be incapable of maintaining any suit for, or enforcing any lien with respect to, any fee or reward for, or with respect to, anything done or any disbursement made by him as Pleader, Mukhtár or Revenue-agent whilst he has been contravening the provisions of either of such sections.

33. Any Pleader, Mukhtár or Revenue-agent failing to deliver up his certificate as required by section twenty-six shall be liable, by order of the Court, Authority or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended or dismissed Pleader, &c., failing to deliver certificate.

34. Any Pleader, Mukhtár or Revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a Pleader, Mukhtár or Revenue-agent in any Court or Revenue-office, shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment

On suspended or dismissed practitioner practising during suspension or after dismissal.

onment

onment in the civil jail for a term which may extend to six months.

Revision of fines.

35. Every order under section thirty-two, thirty-three or thirty-four shall be subject to revision by the High Court where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue-Authority where the order has been passed by an officer subordinate to such Authority.

Penalty for receiving or giving commission.

36. Whoever commits any of the following offences:—

(a) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(b) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered to any legal practitioner for such employment;

(c) being a legal practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII.—*Miscellaneous.*

Local Government to appoint examiners.

37. To facilitate the ascertainment of the qualifications mentioned in sections six and seventeen respectively, the Local Government shall, from time to time, appoint persons to be examiners for the purposes aforesaid, and may, from time to time, make regulations for conducting such examinations.

Exemption of High Court practitioners from certain parts of Act.

38. Except as provided by sections four, five, sixteen, twenty-seven, thirty-two and thirty-six, nothing in this Act applies to Advocates, Vakils and Attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted,

constituted, or to Mukhtárs practising in such Court, or to Advocates enrolled by the Chief Court of the Panjáb.

39. When any person who holds a certificate as a Mukhtár under section seven and a certificate as a Revenue-agent under section eighteen is suspended or dismissed in one of such capacities, he shall be deemed to be suspended or dismissed, as the case may be, also in the other.

Suspension or dismissal of person holding Mukhtár and Revenue-agent's certificates.

40. Notwithstanding anything hereinbefore contained, no Pleader, Mukhtár or Revenue-agent shall be suspended or dismissed under this Act unless he has been allowed an opportunity of defending himself before the Authority suspending or dismissing him.

Pleaders, &c., not to be suspended or dismissed without being heard.

41. In the Panjáb Courts Act, 1877, after section forty-one, the following shall be inserted (that is to say):—

Advocates of Panjáb Chief Court.

“42. The Chief Court may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be Advocates of such Court.

“Subject to such rules, the Chief Court may admit and enrol such and so many Advocates as it thinks fit; and such Advocates shall be entitled to appear for the suitors of such Court, and to plead or to act, or to plead and act, for such suitors according as such Court may by its rules determine, and subject to such rules.

“The Chief Court may dismiss any Advocate so enrolled or suspend him from practice :

“Provided that no such Advocate shall be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the Chief Court.”

[ACT XVIII

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FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2).

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865 ...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865...	To amend the Pleaders, Mukhtárs and Revenue-Agents Act, 1865.	So much as has not been repealed.
Act IX of 1866 ...	To extend to the Sadr Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue-Agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-Agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877...	The Panjáb Courts Act, 1877 ...	Sections forty-two, forty-three, forty-four and forty-five.

SECOND SCHEDULE.

VALUE OF STAMPS FOR CERTIFICATES.

(See section 25).

I.

For a certificate authorizing the holder to practise as a Pleader—

(a) In the High Court and any subordinate Court—rupees fifty :

(b) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(c) In all other subordinate Courts—rupees twenty-five :

(d) In

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ALED.

	Extent of repeal.
relating to rs.	The whole.
Mukhtárs Act, 1865.	So much as has not been repeal- ed.
adr Court Provinces of "The and Reve- 35," and of 365.	The whole.
e-Agents to suits in the the Lower	The whole.
ct, 1877 ...	Sections forty-two, forty-three, forty-four and forty-five.

EDULE.

CERTIFICATES.

(25).

g the holder to practise
d any subordinate Court
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rdinate Courts—rupees

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(d) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees fifteen :

(e) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

II.

For a certificate authorizing the holder to practise as a Mukhtár—

(f) In the High Court and any subordinate Court—rupees twenty-five :

(g) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(h) In all other subordinate Courts—rupees fifteen :

(i) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees ten :

(j) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorizing the holder to practise as a Revenue-agent—

(k) In the office of the Chief Controlling Revenue-Authority and in any Revenue-office subordinate to such Authority—rupees fifteen :

(l) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten :

(m) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

ACT No. XIX OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th October, 1879).

An Act to amend the law in force in Thánás Raipur and Khattra.

WHEREAS the territory comprised in the tháná of Raipur (including the independent Police outpost of Simlapal) and the tháná of Khattra has been transferred from the district of Mánbhum to the district of Bankúra; Preamble.

And whereas the said territory, when included in the district of Mánbhum, formed portion of the Chutiá Nágpur Division, which is a Scheduled district under Act No. XIV of 1874 (the Scheduled Districts Act, 1874);

And whereas it is expedient that the law in force in the said territory should be the same as the law in force in the district of Bankúra; It is hereby enacted as follows:—

1. This Act may be called "The Raipur and Khattra Laws Act, 1879": Short title.

and it shall come into force at once.

2. All enactments which on the first day of October, 1879, were in force in the district of Bankúra and not in the said territory shall be deemed to have come into force in the said territory on that day; and all enactments which on that day were in force in the said territory and not in the district of Bankúra shall be deemed to have been repealed on and from that day in the said territory. Commencement.
Laws of Bankúra to apply.
Other laws repealed.

3. All proceedings commenced before any authority in the said territory before the said first day of Pending proceedings.

October,

[Price one anna and three pies.]

Raipur and Khattra Laws. [ACT XIX, 1879.]

October, 1879, and still pending shall be disposed of by such authority as the Local Government may direct and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to
cease to be a
Scheduled
district.

4. The said territory shall be deemed to have ceased to be a Scheduled district on the said first day of October, 1879.

ACT XIX, 1879.]

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be carried on as if

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ACT No. XX OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 14th
November, 1879).*

An Act to provide for the better prevention of Glanders and Farcy among Horses.

WHEREAS it is expedient to provide for the better Preamble.
prevention of glanders and farcy among horses;
It is hereby enacted as follows:—

1. This Act may be called "The Glanders and Short title.
Farcy Act, 1879":

It extends to the whole of British India, except Local extent.
the territories respectively administered by the Gov-
ernor of Fort St. George in Council, the Governor of
Bombay in Council and the Lieutenant-Governor of
Bengal;

and it shall come into force at once.

2. In this Act, unless there is something repug- Commence-
ment.
nant in the subject or context,— Interpreta-
tion-clause.

"horse" includes also ponies, asses, mules and "horse":
jennets:

"diseased" means affected with glanders or farcy. "diseased."

3. The Local Government may, by notification in Local Gov-
ernment may
apply the
Act.
the official Gazette, apply this Act, or any provision of
this Act, to any local area, to be specified in such noti-
fication, within the territories administered by it, and
may in like manner amend or cancel any such noti-
fication.

4. When this Act has been so applied to any local Local Gov-
ernment to
appoint
Inspectors.
area, the Local Government may, by notification in
the official Gazette, appoint either by name or by

virtue

[Price one anna and nine pies].

virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.

Inspector's power to seize horse.

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

Power of entry and search given to Inspectors.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Horse to be examined by Veterinary Surgeon.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be destroyed if found diseased; otherwise restored.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, &c.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the

Local

Local Government may from time to time by rule prescribe, destroyed.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

Owner or person in charge of diseased horse to give notice.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Prohibition against removal, without license, of horse which has been with diseased horse.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Vexatious entries, searches and seizures.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section nine, or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for refusing to comply with notice under section 9; or moving horse contrary to section 11.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

Power to make rules.

(a) for regulating entries and searches by Inspectors under this Act;

(b) for

Glanders and Farcy. [ACT XX, 1879.]

(b) for regulating the destruction of horses certified under section eight to be diseased, and the disposal of the carcasses of such horses ;

(c) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed ;

(d) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted ; and

(e) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Validation
of destruction
of diseased
horses pre-
vious to pass-
ing of this
Act.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindí and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

Act XX, 1879.]
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THE FOREIGN JURISDICTION AND EXTRADITION ACT, 1879.

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[Price three annas and three pies.]

Extradition.

[ACT XXI

SECTIONS.

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THE SCHEDULE.

[ACT XXI

... or make over
... of any part of
... for arrest of
... offence out of
... Local Government.
... time if not pro-

Foreign Criminal

ACT No. XXI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 14th
November, 1879).*

An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

WHEREAS by treaty, capitulation, agreement, Preamble.
grant, usage, sufferance and other lawful means the Governor General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor General in Council; and whereas doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872, was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act and re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879": Short title.

It extends to the whole of British India;

Extent.

to
3

to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

and it shall come into force on the passing thereof.

Commencement.

Saving of other laws and of treaties.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

Repeal.

2. The Foreign Jurisdiction and Extradition Act, 1872, is repealed; but all existing appointments, delegations, certificates, requisitions and rules made, and all existing notifications, summonses, warrants, orders and directions issued, under that Act shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

Interpretation-clause.

"Political Agent."

3. In this Act, unless there is something repugnant in the subject or context,—

"Political Agent" means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India:

(2) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India; and

"European British subject."

"European British subject" means a European British subject as defined in the Code of Criminal Procedure.

CHAPTER II.

POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

Exercise of powers of Governor

4. The Governor General in Council may exercise any power or jurisdiction which he for the time being has

has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor General in Council from time to time thinks fit.

General in places beyond British India, and delegation thereof.

5. A notification in the *Gazette of India* of the exercise by the Governor General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

Notification of exercise or delegation of such powers.

6. The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, in any such country or place to be a Justice of the Peace; and every such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure on Magistrates of the first class who are Justices of the Peace and European British subjects.

Appointment, powers and jurisdiction of Justices of the Peace.

The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April, 1872, by the Governor General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

Confirmation of existing Political Agents and Justices.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend—

Extension of criminal law of British India to British subjects out of British India.

(a) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and

(b) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

CHAPTER III.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

Liability of British subjects for offences committed out of British India.

9. When a European British subject commits an offence in the dominions of a Prince or State in India in alliance with Her Majesty, or

when a Native Indian subject of Her Majesty commits an offence at any place beyond the limits of British India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found :

Political Agent to certify fitness of inquiry into charge.

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there be such, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge is one which ought to be inquired into in British India :

Provided also that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar against further proceedings against him under this Act in respect of the same offence at any place beyond the limits of British India.

Power to direct copies of depositions and exhibits to be received in evidence.

10. Whenever any such offence as is referred to in section nine is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the place in which such offence is alleged to have been committed

committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

CHAPTER IV.

EXTRADITION.

11. When an offence has been committed or is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

Arrest and removal of persons other than European British subjects escaping into British India.

if such Political Agent thinks that the offence is one which ought to be inquired into in such State ;

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor General in Council by a notification in the *Gazette of India*.

12. Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the place and delivered to the officer named in the warrant.

Direction and execution of warrant.

13. Such Political Agent may either dispose of the case himself, or, if he is generally or specially directed to do so by the Governor General in Council, or by the Governor of the Presidency of Fort St. George in Council or by the Governor of the Presidency of Bombay in Council, may give over the person so forwarded, whether he be a Native Indian

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

subject

subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed.

Requisitions for extradition by the Executive of any part of British dominions or Foreign power.

14. Whenever a requisition is made to the Governor General in Council or any Local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall inquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section ten shall apply to inquiries held under this section.

Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.

15. Whenever any person accused or suspected of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section eleven, issue a warrant for the arrest of such person, or that the persons for the time being administering the executive government of any part of the dominions of Her Majesty or
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the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Magistrate to inform Political Agent or Local Government.

16. No person arrested on a warrant issued by a Magistrate under section fifteen shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section eleven from the Political Agent for any State for the delivery of such person, or an order with reference to him under section fourteen from the Governor General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

Person arrested to be released after certain time if not proceeded against,

At any time before the receipt of such a warrant or order the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

17. The provisions of the Code of Criminal Procedure in respect of bail shall apply in the case of any person arrested under section fifteen in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Bail.

CHAPTER V.

MISCELLANEOUS.

18. The Governor General in Council may, from time to time, make rules to provide for—

Power to make rules.

(1) the confinement, diet and prison-discipline of British subjects, European or Native, imprisoned by Political Agents under this Act ;

(2) the

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them; and

(3) generally to carry out the purposes of this Act.

Execution of
commissions
issued by
Foreign
Criminal
Courts.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal:

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

THE SCHEDULE.

SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION ELEVEN.

Sections 206, 208 and 224; sections 230 to 263, both inclusive; sections 299 to 304, both inclusive; sections 307, 310 and 311; sections 312 to 317, both inclusive; sections 323 to 333, both inclusive; sections 347 and 348; sections 360 to 373, both inclusive; sections 375 to 377, both inclusive; sections 378 to 414, both inclusive; sections 435 to 440, both inclusive; sections 443 to 446, both inclusive; sections 464 to 468, both inclusive; sections 471 to 477, both inclusive.

Act, 1879.]

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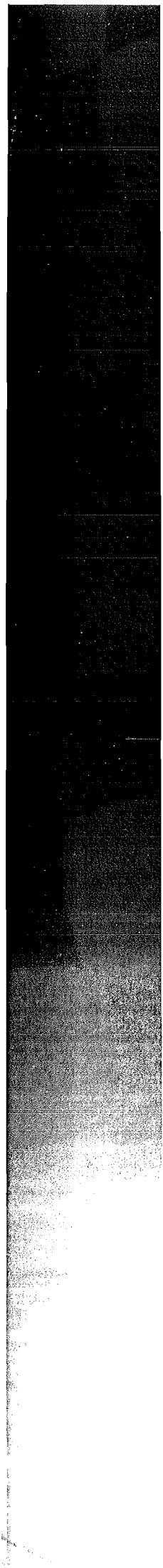
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