

AN
ANALYSIS
OF THE
LAWS AND REGULATIONS
ENACTED BY THE
GOVERNOR GENERAL IN COUNCIL,
AT FORT WILLIAM, IN BENGAL,
FOR THE
CIVIL GOVERNMENT OF THE BRITISH TERRITORIES UNDER THAT PRESIDENCY:

In Six Parts.

VOL. I.

COMPRISING THE FIRST AND SECOND PARTS,
OR
GENERAL LEGISLATIVE PROVISIONS FOR ENACTING A CODE OF LAWS AND REGULATIONS; WITH RULES FOR CIVIL AND CRIMINAL JUSTICE; AND THE POLICE.

ALSO,

A CONCISE VIEW OF THE MOHUMMUDAN CRIMINAL LAW.

BY JOHN HERBERT HARRINGTON,

LATE PRESIDENT OF THE COUNCIL OF THE COLLEGE OF FORT WILLIAM;
AND CHIEF JUDGE OF THE COURTS OF SUDDER DEWANNY AND
NIZAMUT ADAWLUT, AT THAT PRESIDENCY.

REVISED EDITION

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DIRECTORS OF THE EAST INDIA COMPANY.

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1821.

TO THE HONORABLE
COURT OF DIRECTORS,
OF
THE UNITED COMPANY OF MERCHANTS OF ENGLAND,
TRADING TO THE
EAST INDIES;
THIS REVISED EDITION
OF THE
LAWS AND REGULATIONS,
ENACTED BY THE GOVERNOR GENERAL IN COUNCIL,
AT FORT WILLIAM, IN BENGAL,
FOR THE ADMINISTRATION OF
CIVIL AND CRIMINAL JUSTICE, AND THE POLICE,
WHICH HAS BEEN PREPARED AT THEIR DESIRE, AND IS NOW PUBLISHED
UNDER THEIR PATRONAGE,
IS RESPECTFULLY DEDICATED,
BY THEIR FAITHFUL AND OBEDIENT SERVANT,
J. H. HARINGTON.

LONDON, DECEMBER 26, 1821.

INTRODUCTION.

THE following extract from the Introduction to the first edition of this Analysis will best explain the nature and design of the undertaking.

“ The Author of the following attempt to facilitate the study and knowledge of the Laws and Regulations, enacted by the Governor General in Council of the British possessions in India, is conscious that he has little qualification for such an undertaking, except what he may have derived from official experience, in the course of nearly four and twenty years employment; formerly in the Revenue, and latterly in the Judicial department, of the Honorable Company’s Civil Service at this Presidency. In discharge of the obligations imposed by the public trusts committed to him in these departments, it became his duty to inform himself of the letter, and, as far as lay in his power, of the principles, spirit, and intention, of the rules of conduct, which had been established for his guidance, or for that of the officers acting under his control, in the administration of justice, civil and criminal; in the establishment of an efficient police; in the settlement and collection of the public revenue; in the maintenance of the rights of proprietors and farmers of land, and of their under-tenants; and, generally, in the execution of all functions appertaining to the judicial and revenue officers of this Government. He is sensible, however, that any practical knowledge of the existing regulations, which he may have acquired by the opportunity thus afforded him, in common with many of his fellow servants more capable of profiting by it, has not qualified him to expound the laws, which have been

enacted for the internal government of the extensive and populous territories, now immediately subject to the chief seat of British authority in India; or to enter upon a course of systematic instruction in the fundamental principles, and elementary provisions of those laws, such as would prove satisfactory to others, or to himself. The observation of the Commentator on the Laws of England, applied to education for the bar by practice only, without previous regular instruction in the rudiments of legal knowledge, is equally applicable to a person, deriving the whole of his acquaintance with the Laws of India from a practical observance of the operation of them:—‘ If practice be the rule he is taught, practice
 ‘ must also be the whole he will ever know: if he be uninstructed in the
 ‘ elements and first principles upon which the rule of practice is founded,
 ‘ the least variation from established precedents will totally distract and
 ‘ bewilder him. *Ita lex scripta est*, is the utmost his knowledge will
 ‘ arrive at; he must never aspire to form, and seldom expect to compre-
 ‘ hend, any arguments drawn *a priori*, from the spirit of the laws, and the
 ‘ natural foundations of justice.’

“To remedy the defect thus described by Sir W. BLACKSTONE,¹ he proposed ‘ the making academical education a previous step to the profes-
 ‘ sion of the Common Law, and, at the same time, making the rudiments
 ‘ of the Law a part of academical education;’ a suggestion obviously and
 forcibly apposite to the laws of British India, and to the institution expressly founded ‘ for the better instruction of the ~~junior~~ civil servants of
 ‘ the Honorable the English East India Company, in the important du-
 ‘ ties belonging to the several arduous stations, to which the said junior
 ‘ civil servants may be respectively destined, in the administration of
 ‘ justice, and in the general government of the British empire in India.’”

“But it is further remarked by the Vinerian Professor of the Laws of England, who addressed the University of Oxford, and inculcated the study of those laws in that University, that the ‘ sciences are of a socia-
 ‘ ble disposition, and flourish best in the neighbourhood of each other;

¹ In his excellent Introductory Discourse on the study of the Law, page 32.

² Title of Regulation 9, 1800.

nor is there any branch of learning, but may be helped and improved by assistances drawn from other arts. If therefore the student in our laws hath formed both his sentiments and style by perusal and imitation of the purest *classical* writers, amongst whom the historians and orators will best deserve his regard; if he can reason with precision, and separate argument from fallacy, by the clear simple rules of pure unsophisticated *logic*; if he can fix his attention, and steadily pursue truth through the most intricate deduction, by the use of *mathematical* demonstrations; if he has enlarged his conceptions of nature and art by a view of the several branches of genuine *experimental philosophy*; if he has impressed on his mind the sound maxims of the *law of nature*, the best and most authentic foundation of human laws; if, lastly, he has contemplated those maxims reduced to a practical system in the *laws of Imperial Rome*; if he has done this, or any part of it, a student thus qualified may enter upon the study of the Law with incredible advantage and reputation.

“ It was, in like manner, the intention of the Founder of the College of Fort William, as stated in his discourse at the late annual meeting for the distribution of prizes and honorary rewards,¹ ‘ to have provided sufficient means of instruction for the students in the principles of general Jurisprudence, and of the Law of Nations; connecting that course of study with the principles of the Mahomedan and Hindoo law; and with those of the wise and salutary code of laws, introduced by that great and worthy statesman, the MARQUIS CORNWALLIS, for the administration of these provinces; and improved and extended by succeeding Governments, with the aid of the talents, knowledge and virtues of SIR GEORGE BARLOW.’ But it is much to be regretted that circumstances have prevented the institution of a regular course of lectures on the general principles of Jurisprudence, and of the Law of Nations. The suspension of this part of the original plan for the College necessarily precludes, at present, any attempt to connect the study of the several local codes with that of general Law; except, as recommended in the discourse referred to, by the

¹ Held before His Excellency MARQUIS WELLESLEY, as Visitor of the College, on the 11th February, 1805.

private perusal of the most approved elementary works upon the Laws of Nature, and of Nations; a knowledge of which ' will prove of the utmost ' advantage in every department of this service. To those destined for ' the judicial department the necessity of such a course of study is obvious ' and incontrovertible. But in every department of the service, the ' knowledge of the leading maxims of general Law will tend to secure a ' due observance not only of the regulations of the Government; but of ' the principles of universal justice and equity towards every class of our ' numerous and various subjects, and of all the native inhabitants of ' India.'

" Divested from this part of the original object, co-extensive with the general views of the great personage, who founded a collegiate institution at this Presidency, for the political and benevolent purposes set forth in the preamble to the regulation which established it, the Professor, intended by the rules for that institution, of the laws and regulations enacted for the civil government of the British territories in India, would still have an important duty to perform, in delivering a regular course of Lectures, on the principles and various provisions of this already voluminous, and yearly increasing code; the general objects of which, to be explained and developed by such a course, are, as expressed in the Visitor's discourse before mentioned, ' the due distribution of the legislative, executive, and ' judicial authorities of the State; the establishment of an impartial ad- ' ministration of justice, according to the existing laws, and the provision ' of gradual means for the improvement of those laws.' But the daily occupation of indispensable official duties, as well as an unfeigned sense of inability to do justice to the functions of a public lecturer upon the regulations, would not admit of this office being undertaken, by the person who has been unexpectedly honored with the station of ' Professor ' of the Laws and Regulations of the British Government in India.' At the same time, his having been distinguished by a selection, which he could not but esteem highly flattering to him, added to an earnest desire of contributing any aid in his power to promote the objects of an excellent public institution, made him anxious to devise some practicable means of promoting the study of the regulations in the College of Fort

William; and after consideration of the subject, during a short intermission of judicial duties, the following plan of an Elementary Analysis, of the Laws and Regulations enacted by the Governor General in Council, designed for the use and assistance of the junior civil servants of the Company, in acquiring a competent knowledge of those regulations, before they enter upon the public service, was submitted to His Excellency the Patron and Visitor of the College; who having been pleased to honor it with his approbation, it is now, at his desire, commenced; and (*favente Deo*) will be gradually completed, as occasional leisure from official avocations may admit. It is necessary to premise, however, that the plan only, as here stated, has been seen and approved by the Governor General; that the work itself has not been submitted for the sanction of Government; and consequently that it is not to be considered official, or bearing any authority beyond what it may be found to merit from its correspondence with the public regulations to which it refers.

“The three principal branches of the public administration, committed to the agency of the East India Company’s servants at this Presidency, (exclusive of the political and diplomatic, which being distinct from the internal Government, and depending more immediately upon the Governor General, have not been provided for by any regulation) are the judicial, revenue, and commercial. This Analysis is therefore divided into parts, having reference to each of those departments; and as the prescribed period of study in the College of Fort William is three years, and two public examinations are directed to be holden annually; the entire work is meant to consist of six parts, in the following order:—

“PARTS I. and II. to have reference to the judicial department, civil and criminal; and to include (besides the general legislative provisions upon which the present code of regulations is founded) a concise elementary statement of the principal rules which have been enacted for the administration of civil and criminal justice, and for the police; or for objects connected therewith; the general principles upon which such rules appear to have been framed; and any material alterations of, or additions

to, the original rules, which have taken place under regulations subsequently enacted.

“PARTS III. and IV. to have reference to the revenue department; and to contain a similar statement and explanation of the regulations passed for the settlement and collection of the several branches of the public revenue; for defining the powers and duties of the officers employed in the revenue department; for securing the rights and tenures of the proprietors and tenants of land; for enabling landholders and farmers to realize their rents with punctuality; and generally for all objects connected with the administration of the public revenue; or the land tenures and rents of the country.

“PART V. to refer to the commercial department; and to include a like specification of the rules established for the provision of the Company's investment; or for the guidance of the officers employed in the commercial department; for the manufacture and sale of salt and opium; or for the regulation and collection of the customs; with such comment upon these subjects respectively, as may appear requisite, to explain the principles on which the existing provisions regarding them have been judged expedient.

“PART VI. to be miscellaneous; relating to all matters of importance in the regulations, which shall not have been included in the preceding parts; and to be accompanied with a similar illustration, as far as necessary, of the reasons of justice, or policy, which appear to have dictated the provisions made for them.

“Such deficiencies, as may occur in the first execution of this plan, will be supplied in a future improved Analysis; if the work should be found to answer the purpose intended by it. In the mean time, it is hoped, that due allowance will be made for the imperfections of a first attempt, undertaken, on the spur of the occasion, amidst the constant avocations of high and arduous public duties, and without the advantages usually possessed, in a professional education, and the aid of antecedent works of a similar nature. The author of this humble attempt to illustrate, and advance the knowledge of, the Laws of the British Empire in India, has indeed before him the *Commentaries on the Laws of England*;

to which he has already referred ; and in which the province of an academical Expounder of the Laws is thus, in part, described. ‘ He should consider his course as a general map of the Law, marking out the shape of the country, its connexions and boundaries, its greater divisions, and principal cities. It is not his business to describe minutely the subordinate limits, or to fix the longitude and latitude of every inconsiderable hamlet. His attention should be engaged, like that of the readers in FORTESCUE’S inns of Chancery, in tracing out the originals, and as it were the elements of the Law.’ But it must be manifest to every person who has examined the Regulations of the British Government in India, that, however excellent in their nature, and admirably adapted, as they are, for the objects intended by them ; the matter of the greater part of them cannot, as a science, be brought in comparison with the Laws of England. By far the larger proportion of them contain rules of conduct for the public officers employed in the several departments of the civil service ; which, however necessary to be known by the persons to be employed in this service, and therefore, with the utmost propriety, made part of the studies which are to qualify the junior civil servants of the Company for the discharge of their future duties, could not perhaps, with the advantage of superior abilities, general knowledge, and sufficient leisure for the purpose, be embodied in a course of lectures, that would admit of the most distant imitation of the elegant, comprehensive, instructive work of BLACKSTONE ; which, as remarked by his Editor, now ‘ forms an essential part of every gentleman’s library :’ and from its lucid arrangement, pure language, and clear intelligible explanation of each distinct subject, is calculated to yield equal pleasure and improvement.

“The orderly perusal, and attentive study, of the regulations themselves, must be the principal means of acquiring an accurate knowledge of them. The sole aim and scope of this Analysis are, to assist such perusal ; to facilitate such study ; and by the aid so given, to promote the attainment of a more perfect knowledge of the code of laws, administered by the servants of the East India Company, (through whose mediation they are also the public officers of the State,) in this extensive and valuable portion of the British Empire.”

It may be added, in this place, that it formed no part of the Author's design, to offer his own sentiments on the policy, by which the laws referred to were dictated. The opinions of an individual might be erroneous, and tend to mislead those, for whose use this work was chiefly intended. He has therefore, in general, confined himself to a statement of the recorded grounds and principles, on which the legislative enactments noticed by him were declared to be founded; with occasional citations of authorities; adding his willing testimony to the beneficial effects of important regulations, the result of which has fallen under his personal observation; and, in a very few instances, pointing out, for future consideration, in what respects the existing rules appear, from experience, to be still deficient.

It may be also proper to mention here, what has been more fully stated in the Introduction to the second volume of this Analysis, published at the commencement of the year 1816, that in the course of prosecuting the work, with a view to render it useful beyond the walls of the College, a more diffused method was adopted in citing the regulations, than was originally proposed; such as to render it a digested compilation, or compendium, of the rules in force; which being, in general, quoted *verbatim*, might be used, and relied on, by the officers of Government, employed in the several departments of the public service. This alteration of plan in the Analysis was approved by Government, as appearing "calculated to augment its utility, in a material degree;" and has therefore been observed in the revised edition of the first volume.

It will be sufficient to add a brief recital of the circumstances which led to the present edition—

When the third volume, which completed my undertaking, was delivered to the Governor General in Council, in the year 1818, being about to leave Bengal, I represented that "had the state of my health admitted of my remaining another year in the country, I should have offered to undertake a revised edition of the first volume; but as there has been a considerable demand for this volume, which could not be supplied from the few copies remaining in the College; and also as many important regulations, connected with the administration of civil and criminal

justice, and the police, which constitute the subjects of Vol. I. of my Analysis, have been enacted since that volume was printed, at the close of the year 1808. Being under the necessity of leaving India, for my native country, at the end of the present year, the Honorable the Vice President in Council will be pleased to determine whether any other person shall be employed to execute the duty which I am compelled to relinquish." In answer to this suggestion, I received a letter from the Chief Secretary to the Government, (dated 19th May, 1818,) from which the following is an extract:—"The Vice President in Council, looking to the advantage which must obviously attend the proposed revision of the first part of the Analysis being performed by the author, has directed me to suggest, for your consideration, whether the revision in question might not be conveniently undertaken by you during your voyage, and eventually published in England, with the sanction of the Honorable the Court of Directors." The state of my health did not admit of my undertaking so laborious a work on my voyage to England; but in May, 1820, I addressed the Honorable Court of Directors on the subject; and tendered my services, in case the Court should concur in opinion with the Government of Bengal, that my execution of the proposed revision would be advantageous. On the 23d February, 1821, the Secretary to the Honorable Court informed me, "that, adverting to the opinion expressed by the Government of Bengal, that considerable advantage might be expected to result from the proposed revision, the Court have determined to encourage you to prosecute the undertaking." It was added, that with this view, and to enable me to defray the expense of printing five hundred copies of the first volume of my Analysis, when revised, the Court were prepared to take that number of copies, at the price of three pounds per copy. It was at the same time communicated to me by the Chairman, that I should be at liberty to print any number of copies, exceeding five hundred, on my own account.

The revised volume, including all the regulations in force on the subjects of Civil and Criminal Justice, and the Police, which have reached England to the end of the year 1821, has accordingly been printed, and is now published, under the patronage of the Honorable Court of Direc-

tors, to whom five hundred copies will be delivered for distribution to the public offices, under the Presidency of Fort William; except such as the Honorable Court may be pleased to reserve for their own use, and that of the students at Haileybury College. In the hope that the contents of this volume, (which, though incomplete with respect to the entire work, contains the whole of the legislative enactments of the Governor General in Council, connected with the two branches of the Judicial Department, and the Police,) may be useful and acceptable to many persons, in England and in India, who cannot be supplied with it by the East India Company, two hundred and fifty additional copies have been printed, at my own charge; and will be disposed of at a price, calculated in proportion to the actual expense, and risk.

I shall conclude this Introduction with the following further extract from that prefixed to the original edition—

“ To the students of the College of Fort William, it cannot be requisite to add any argument, advice, or encouragement, to convince them of the necessity of acquiring a correct knowledge of the laws and regulations in force at this Presidency, for the purpose of enabling them to discharge their future duties in the public service; to persuade them of the satisfaction, credit, and advancement, which must attend their possessing this qualification, in addition to the other means furnished by the College, of rendering themselves competent and distinguished public officers; or to stimulate their application to this course of study, by the prospect of immediate advantage and distinction, to those who shall pursue it with diligence and success; such as shall entitle them to the rewards and honors promised, in the late discourse from the Visitor, to those students who shall appear at the Examinations to have obtained eminent knowledge of the Laws and Regulations, which they are destined to administer in their several stations, to the people of these extensive provinces.’ The discourse referred to, which every student, present and future, would do well to impress upon his memory, contains all that could be said, with effect, upon these topics; and the following quotation from it, comprising the most honorable testimony to the real merits of the code of regulations, which form the subject of the subsequent Ana-

lysis, will afford a suitable conclusion to these introductory remarks. Subject to the common imperfection of every human institution, this system of laws is approved by practical experience, (the surest test of human legislation,) and contains an active principle of continual revision, which affords the best security for progressive amendment. It is not the effusion of vain theory, issuing from speculative principles, and directed to visionary objects of impracticable perfection; but the solid work of plain, deliberate, practical benevolence; the legitimate offspring of genuine wisdom, and pure virtue. The excellence of the general spirit of these laws is attested by the noblest proof of just, wise, and honest Government; by the restoration of happiness, tranquillity and security, to an oppressed and suffering people; and by the revival of agriculture, commerce, manufacture, and general opulence, in a declining and impoverished country.’”

J. H. HARINGTON.

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APPENDIX.

SINCE the completion of the present volume, the following regulations, which are connected with the subjects of it, have been received from India ; and are therefore added, with a view to bring up the compilation to as recent a period as circumstances admit. The contents of these regulations will also be noticed in the Index.

The following regulations received from India, since this volume was completed.

“ A. D. 1820. REGULATION VII.”

R. 7, 1820.

“ *A Regulation for altering the punishment and form of trial, in cases of Dhurna : passed by the Governor General in Council, on the 8th December, 1820.*”

Title.

“ The offence denominated Dhurna implies, in its received acceptation, the practice of illegal duress by individuals, for the extortion of money, or for the recovery of debts without authority from the civil magistrate ; and also, without such authority, for retaining or recovering the possession of land, or for carrying any other point of real, imaginary, or pretended interest or right. On the trial of the offence by a court of circuit, the existing regulations require, that, instead of the futwa of the Mohummudan law officer, usual in other trials, a bebusta shall be taken from the pundit of the provincial court, as to the fact of dhurna (according to the received acceptation) being established, or not, by the evidence adduced. But the pundit of the provincial court being stationary at the sudder station of the court, this mode of trial has been found to be attended with great delay ; as well as otherwise unsatisfactory. And it has been ascertained that the act of dhurna is a misdemeanor punishable in Mohummudan law, under the head of zulm, or oppression. It having accordingly been deemed advisable, that in trials before a court of circuit, for dhurna, a futwa should be given by the Mohummudan law officer, as in other trials, in lieu of the bebusta hitherto taken ; and it having also been deemed advisable that the magistrates should have power to pass sentence in minor cases of the offence of dhurna ; and further, that the existing penalties annexed to the offence should be revised and simplified ;

Preamble.

the following rules have been enacted, to be in force from the date of their promulgation, throughout the provinces immediately subject to the presidency of Fort William."

Section 2.
Notice of
rules rescind-
ed.
Section 3.
Magistrates
how to proceed
on charges of
dhurna.

§ 2. "Sections 11 and 12, Regulation 21, 1795; Regulation 5, 1797; Section 6, Regulation 8, 1799; Sections 9 and 10, Regulation 3, 1804; and such other provisions in the existing regulations, as relate to the offence of dhurna, are hereby rescinded." § 3. "On a complaint in writing being presented to a magistrate against any brahmin, or brahmins, or against any other person or persons of whatever description, for sitting dhurna, the magistrate, upon oath being made to the truth of the information, shall issue a warrant or summons, (as the case may require) under his seal and signature, for the apprehension, or appearance before him, of the person or persons thus complained against. On the accused being brought before the magistrate, he shall enquire into the circumstances of the charge, and examine the accused and the complainant; and also such other persons (whose depositions are to be taken on oath) as are stated to have any knowledge of the misdemeanor alleged; and commit their respective depositions to writing; and after this enquiry, if it shall appear to the magistrate that the misdemeanor charged was never committed, or that there is no ground to believe the accused to have been concerned in committing it, the magistrate shall cause him (or them) to be forthwith discharged; recording his reasons for the same. On the contrary, if it shall appear to the magistrate, that the misdemeanor was actually committed, and that there are grounds for believing the accused to have been concerned in the commission of it; the magistrate shall (except in the cases mentioned in Section 7) cause the accused to be committed to prison, or held to bail (according as in his discretion he shall judge proper) for trial at the next session of the court of circuit; and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence." § 4. "The trial of persons charged with dhurna, shall take place before the court of circuit, in the same mode as is prescribed for other trials by the existing regulations; and in lieu of the bebusta hitherto taken from the pundit of the provincial court, the Mohummudan law officer of the court of circuit shall write his futwa, declaring whether the offence charged is established, or not, against the accused."

Section 4.
Mode of trial
for dhurna, be-
fore court of
circuit.

Section 5.
What punish-
ment for dhur-
na adjudicable
by court of
circuit.

Section 6.
Trials for
dhurna when
referrable.

Section 7.
In what cases
of dhurna ma-
gistrates may
pass sentence
and to what
extent.

§ 5. "On conviction of the offence of dhurna before a court of circuit, the penalties adjudicable shall be as follow; namely, imprisonment in the civil jail for a term not exceeding one year, and fine not exceeding one thousand rupees, commutable, if not paid, to further imprisonment for a term not exceeding one year." § 6. "Trials held before a court of circuit in cases of dhurna, shall be referrible to the nizamut adawlut, or not, according to the rules applicable in other trials." § 7. "It shall be competent to the magistrates, in charges for the offence of dhurna, which they may be of opinion, from the circumstances, do not require commitment to the court of circuit, to hear the evidence against and for the accused; and if they consider the accused to be convicted, to pass sentence of fine, not exceeding two hundred rupees; commutable, if not paid, to imprisonment in the civil jail for a period not exceeding six months."

" A. D. 1821. REGULATION I."

R. 1, 1821.

" A Regulation for the appointment of a special commission in the ceded and conquered provinces, for the investigation and decision of certain claims to recover possession of land illegally or wrongfully disposed of by public sale, or lost through private transfers effected by undue influence ; and for the correction of the errors, or omissions, of the proceedings adopted by the revenue officers in regard to the record and recognition of proprietary rights, and the ascertainment of the tenures, interests, and privileges, of the agricultural community : passed by the Governor General in Council on the 13th of January, 1821."

Title.

" It has appeared that in the first seven or eight years after the acquisition of the ceded provinces by the British Government, the native officers of Government, their relations, connections, and dependents, taking advantage of the novelty of the British rule, of the weakness and ignorance of the people, and (in some cases) of the culpable supineness and misconduct of the European functionaries under whose authority they were employed, contrived by fraudulent and iniquitous practices to acquire very extensive estates in several of the provinces in question, more especially in the districts of Allahabad, Cawnpore, and Goruckpore ; thus wrongfully depriving of their just rights a great number of the ancient land owners, and reducing them and their numerous dependents to ruin and misery. These abuses have been chiefly practised through the perversion, to the purposes of chicanery and fraud, of the rules enacted for the collection of the government revenue, more especially the provisions relating to the public sale of land for arrears. Under cover of these rules, but contrary to the true intent and meaning of the law by which (though a considerable discretion was left to the revenue authorities) the measure of a public sale was principally designed for cases of embezzlement, contumacy, or fraud, many estates were sold from which no balance (or a very trifling balance) was due, or on which the arrear accrued without any embezzlement, or wilful default on the part of the sudder malgoozar ; and others were disposed of without an observance of the prescribed forms. In several instances too a recourse was had to the measure of a public sale without any proper ascertainment of the liability of the proprietors, or the fact of their being under direct engagements to Government. Thus some estates would appear to have been brought to sale for arrears, although the parties, responsible to Government for the revenue, held only a very limited interest in the mehal sold, or were persons possessing no fixed right of property therein, who had been recorded as proprietors and admitted to engagements on the faith of fraudulent and abusive statements ; and some appear to have been sold, of which the tehseeldars had themselves retained the immediate management, the ostensible malgoozars being creatures of their own, or names purely fictitious being entered on the records. Under such circumstances sales were often effected through the misrepresentations of the tehseeldars, made in collusion with the recorded malgoozars, for the purpose of acquiring for one or other of the parties an ostensible title to the property by purchase at public sale. In like manner there is reason to believe that persons erroneously recorded as the sole proprietors of mehals, in which they possessed either no fixed property or a very limited interest, have in several instances been induced fraudulently to execute deeds of sale in favor of public officers of Government, their relations or dependents, purporting to convey

Preamble

the exclusive property of the lands comprized in the mehal for which they were under engagements, and that on the faith of such deeds the purchasers have been recorded as the sole proprietors thereof. In almost all these cases, the purchasers, whether by public or private sale, taking an illicit advantage of the ignorance of the village occupants, and of their unacquaintance with the regulations, and the forms of judicial practice, have effected an extensive usurpation of private rights, and the consequent annihilation of institutions by which the village communities have immemorially been regulated. There is reason to believe that the same evils have very generally occurred in all cases of sale for the recovery of arrears, even where the transfer of the estate held by the alleged defaulter was legal and valid: the purchasers having usually claimed to possess the whole of the lands comprized in the mehal sold, without being subject to any of the restrictions and conditions arising out of private rights, which attached to the estate of the defaulter, and having frequently succeeded in establishing such claims to an extent not warranted by law. Thus in almost every mehal sold in liquidation of arrears of revenue, many village zemindars, putteedars and other proprietors, though in no degree parties to the engagement of the defaulting malgoozar, and holding under tenures of such a nature as not to be affected by the sale of the estate possessed by such defaulter, further than that, by such sale, the obligations of the under-tenants towards the defaulter are transferred to the purchaser, have been deprived of their just rights, and either ousted from the lands, or reduced to the condition of tenants at will. There is further reason to believe, that, independently of cases of abusive alienation, the village maliks and others have in many cases sustained serious injury, through the insufficiency of the enquiries instituted by the revenue officers, in regard to the tenures under which land and the rights connected with land are held, and from the errors and defects of the public records relating to such matters: that in consequence of such errors and defects many persons justly entitled to engage in chief for the revenue of the lands occupied by them, have been excluded from engagements in favor of persons erroneously recorded as proprietors, and that the real nature and extent of the interests actually possessed by different individuals and classes being ill ascertained and defined, great facilities have been afforded to chicanery and fraud: which have led, and are likely still further to lead, to consequences greatly injurious to individuals, and seriously affecting the peace and good order of the country. The persons who have suffered by the aforesaid abuses are for the most part poor and ignorant men; unaccustomed, under the former government, to any regular system of law; little acquainted with the principles of the British code, or the regular forms of British judicial proceedings; incapable of availing themselves of the protection it was designed to afford; and possessing not the means of securing the aid of individuals better informed; while those opposed to them are for the most part men of wealth and power, who acquired their possessions through the influence of official station, and by an abusive exercise of the authority vested in them as officers of Government, who are well acquainted with all the forms of law as administered in our courts, and who possess ample means of securing the retainers of the adawlut in their service. These indeed are themselves generally supposed to be much interested in maintaining the sales in question, and in supporting all the claims of the purchasers and the sudder malgoozars. Moreover, in all suits brought to annul sales made for the recovery of arrears of revenue, the collector on the part of Government must, under the existing code, be made one of the defendants in the case along with the purchaser, and various other forms must be observed, which are likely to defeat the just claims of the ousted

proprietors. The prosecution too, in ordinary course of regular suits in the adawlut, necessarily involves considerable delay and expense; requiring, besides a long attendance at the court, the payment of various fees, the employment of vakeels, and other expenses, which would alone operate greatly to prevent the complainants in question from seeking redress in that manner, even if the cases were such as to admit of easy decision by the regular tribunals. But the investigation of the abusive alienations and usurpations in question will apparently require a thorough research into voluminous and complicated revenue accounts, minute local enquiries, and a free and constant communication with the parties concerned, and with the local officers: and an active enquiry into all the circumstances of the transactions, without reference to the mere points stated by the plaintiffs; such as the constitution of the established courts would not admit of their pursuing. Besides, the existing regulations do not vest the civil courts with so extensive a discretion in the adjustment of doubtful claims, and in the relief of parties suffering hardships, as the cases in question appear to demand. Further, the regulations applicable to the provinces in question having been necessarily founded on incomplete information, are in many respects defective; so that several points requiring a distinct declaration of the views and intentions of the legislature, relative to the privileges designed to be vested by a settlement in the sudder malgoozar, or conveyed to the purchaser by a public sale, as well as in regard to the extent of the authority vested in the revenue officers in deciding on the mode in which the public revenue is to be managed or collected, still remain to be settled; and cannot yet be settled by a general legislative enactment, without risk of error. The proceedings of the established courts must necessarily partake of any defects belonging to the law, which it is their duty to administer; and it would be obviously inconsistent with every sound principle to grant a general discretion to those courts to deviate from the law on individual views of expediency or justice. The established courts consequently are not so constituted as to provide an adequate remedy for the evils above specified, which can be completely corrected only by a tribunal exercising a larger discretion, and acting in more immediate communication with the Government, than could with propriety be allowed in the case of the courts established for the general administration of civil justice. Even too if these courts were so constituted as adequately to provide for the trial and decision of the cases in question, yet the duty could not be completed by them for a long period of time, without an entire interruption of their ordinary functions; while the parties injured are equally incapable of supporting the expense of a protracted litigation in the adawlut, and of defending themselves in that course of proceeding against the arts and intrigues of their powerful adversaries. In consideration of the above circumstances, it has appeared to the Governor General in Council to be essentially necessary to the ends of justice, that a special commission, with large discretionary powers, and with full authority to regulate its proceedings according to the exigencies of the cases brought before it, should be constituted for the purpose of investigating the cases above described; of restoring to their just rights the zemindars and other proprietors, who have been wrongfully dispossessed; of defining and fixing the real nature and extent of the interests and title conveyed to the purchasers, in cases in which sales may be upheld; of restoring proprietors whose estates may, in consequence of the errors in the administration above noticed, have been transferred to another on account of a trifling balance, or for a trifling consideration, making due compensation to the present possessors; of granting redress to persons, who may have lost the possession or management of their estates without just cause, under the operation of a public sale, or through any act of a revenue officer, or who may have

been wrongfully excluded from engagements with Government, and of making an equitable adjustment of doubtful claims; including the relinquishment, upon due compensation, of rights acquired or held under the strict operation of the law, by means inconsistent with equity and justice, or involving excessive hardship to the sufferers. The following rules have accordingly been enacted, to be in force from the period of their promulgation."

Section 2.
A special commission to be constituted for the purposes described.

Section 3.
Specification of the claims cognizable by the commission.

In what cases sales of estates by public auction may be annulled.

In what cases private transfers of estates may be annulled.

In what cases of limited or conditional assignments of lands, the as-

§ 2. "A special commission, consisting of one or more members, as the Governor General in Council may determine, shall be constituted for the purposes described in the preamble to this regulation, to be denominated the Mofussil Special Commission acting under the provisions of Regulation 1, 1821." § 3. "*First.* The said commission shall receive, investigate, and determine, all claims to recover possession of land, lying within such limits as the Governor General in Council may from time to time appoint, which may have been lost through public sales made in liquidation of arrears of revenue, or through private transfers; such sales and transfers having been effected by the undue influence of a public officer, from the period of the cession or conquest (according as the lands may be situate within the ceded or within the conquered provinces) and the expiration of the Fusses year 1217, corresponding with the 13th September, 1810. *Second.* In cases of estates, disposed of by a public sale for arrears of revenue, if it shall appear to the commission, after due enquiry, made in the manner hereinafter specified, that no part of the balance for which the sale may have been advertised, or the interest payable thereon, was due at the time of the mehal being sold, *i. e.* the lot being knocked down, or that the amount so due was inconsiderable, or that the amount due was not regularly demanded, or that the arrear did not originate in any fault or neglect of the defaulter, or that the defaulter had not sufficient opportunity of payment given to him before the sale, or that sufficient authority for the sale was not received from Government, or the board, as the case may be; or that regular notice of the intended sale was not given to the proprietors and to the community, or that the sale was not made according to the regulations at the time and place advertised, and with due publicity and full freedom, or that the purchaser was an officer on the collector's establishment, or in any way employed in the collection of the public revenue within the district, or in the private service of the collector, or the surety of such officer, or a relation, dependent, or connection of such officer or surety, or that the estate was purchased in a fictitious name, or that the price paid was greatly inadequate, or generally that the sale was oppressive and produced by undue influence, or that an undue advantage was in any respect taken of the ignorance of the persons whose estate may have been sold; in all and each of these cases it shall and may be lawful for the aforesaid commission to pass judgment, annulling the sale, and directing the restoration of the original proprietors, or such of them as may have lost possession under the operation of the sale, or of their representatives. *Third.* It shall likewise be competent to the commission to annul private transfers, whether effected by sale, gift, renunciation, or whatever mode of conveyance, in cases in which they shall see reasonable ground for believing that the purchase or acquisition was effected by violence, extortion, or oppression; or by undue influence of any officer of Government in whatever department, in the district within which the land transferred may be situated, or of the surety of such officer, or of any relation, connection, or dependent of such officer or surety; or that any fraud was practised by the purchaser, or undue advantage taken by him of the ignorance or fears of the seller. *Fourth.* It will further be competent to the commission, in cases of mortgage, trust, or other limited or conditional assignment, to restore the assigner to his lands on any of the

grounds specified above, as reasons for annulling private transfers, or on proof that the period of the assignment has expired, or that it is otherwise justly redeemable, or that the original consideration for which it was made is greatly inadequate, compared with the advantage derived by the assignee.

Fifth. The commission aforesaid shall further be competent to receive, investigate, and determine all claims for the recovery of lands belonging to a mehal, the interests of the sudder malgoozar of which may have been disposed of by public sale, or by private transfer, or assignment, within the period specified in the first clause of this section, or for the recovery of any interest in such lands, or the rent or produce thereof; and if it shall appear that the claimant was in possession of the property claimed by him at the time of the said sale or transfer, and that the said sale or transfer was invalid, or that, though valid, it did not legally divest the claimant of the rights and interests possessed by him at the period aforesaid, and that he has not subsequently been divested of those rights and interests in a legal manner, that is to say, by some judicial award, or some voluntary act of the party involving the transfer, renunciation, or relinquishment of his rights and interests, or that it would involve excessive hardship to the party, or be inconsistent with equity and justice to maintain the award or act by which he may have been divested of the rights and interests possessed by him as above; then and in that case it shall and may be lawful for the commission to adjudge the claimant to be restored to the lands or other property claimed by him, or to any portion thereof to which he may appear to be entitled, and to define and declare the conditions on which he is to hold such lands or property.

Sixth. It shall likewise be competent to the commission to receive, investigate, and determine, all claims for the recovery of lands, or rights connected with land, the possession of which may have been lost, without just cause, through or in immediate consequence of any act done, or record prepared, filed, or authenticated, by a revenue officer, within the period above specified, and to restore the claimants to the possession of any lands, or rights connected with lands, which they may have lost in the manner aforesaid. It shall also be competent to the commission to receive, investigate, and determine all claims to be admitted to engage in chief with Government, which may be preferred by persons aggrieved by any act done, or proceeding held, by a revenue officer, within the aforesaid period, relative to the recognition of proprietary rights, and the admission of parties to engagements with Government; and if it shall appear that the decision of the revenue authorities, in regard to the recognition of a proprietary title to any mehal or portion of a mehal, or the selection of the party admitted to engage, was erroneous or improper, it shall be competent to the commission to reverse or modify the orders passed by the revenue authorities, and to restore to the management of the mehal any person or persons, who may appear best entitled to engage directly with Government. *Seventh.* On adjudging the restoration of any person to the possession or management of the lands claimed by him, the commission will invariably declare, as distinctly as possible, the nature and extent of the interests vested in such claimant, with a view to the restoration and future security of subordinate tenures; and in all cases in which the commission may investigate and determine claims to land, or rights connected with land, under the rules contained in the preceding sections, it shall and may be lawful for them to cause the names of all persons found in the *bonâ fide* possession of the land in dispute, or of land included in the same mehal with the lands in dispute, or enjoying the rents or produce thereof, under a title of hereditary property, to be entered on the public records, and to define and declare the extent of the interest, and the conditions of the tenures possessed by such proprietor, as far as the same may be duly ascertained, and

signer may be restored to possession.

In what cases the special commission may investigate and determine the rights and interests of which individuals may have been deprived in any mehal by the sale, transfer, or assignment of the interests of the sudder malgoozar of such mehal.

Special commission further empowered to investigate claims for the recovery of land or rights connected with land, the possession of which may have been lost without just cause in consequence of the acts or proceedings of revenue officers.

In cases adjudged by the special commission, the interests vested in the claimants to be distinctly defined.

As well as the interests of individuals in possession of the land in dispute, or of land included in the same mehal.

similarly to declare the nature and extent of the tenures and interests of all persons occupying the land in dispute, or lands belonging to the same mehal.

Eighth. The operation of the foregoing clauses shall not be confined to cases in which lands or rights connected with land sold, transferred, alienated, or usurped, as above, may be held by the person originally benefitting by the sale, transfer, alienation, or usurpation; but shall equally extend to those in which the said lands or rights may be held under a title derived from such person: provided, of course, that in cases in which it may appear that the person so holding under a derivative title was in no degree concerned in, or cognizant of, the original wrong—the claims of such person to compensation for any loss he may sustain under the operation of the present regulation, shall be held entitled to a very liberal consideration.” § 4. “*First.* In all cases whatsoever of the description specified in the preceding section, in which it may appear to it to be clearly equitable to afford the claimant relief, though not entitled to a remedy under the existing law, or in which the points at issue may be doubtful, and the means of arriving at a satisfactory conclusion may not exist, it shall be competent to the commission to interpose its authority, to induce the parties to compromise their contested claims, or such interposition failing, to make such award relative to the rights and interests of the parties, as equity and good conscience shall appear to them, upon full consideration of all circumstances, to warrant and require, *Second.* In cases in which the commission may deprive any person of rights legally vested in him, under the existing code, or may make award upon doubtful claims, or in which the title of any person, though invalid, may have been acquired by him *bonâ fide* under an express or implied assurance of its validity on the part of the board, the collector, or judge of the district, it shall be competent to the commission to adjudge compensation in money from the treasury of Government: provided however, that in cases in which the compensation assigned to any individual shall exceed the sum of rupees one thousand, the sanction of Government shall be necessary to authorize the disbursement.” § 5. “*First.* The commission shall be competent to take cognizance of cases of the nature above described, relating to lands within the districts or portions of districts to which its jurisdiction may extend, although the same may have been finally decided in the courts of judicature; and likewise to recal all such cases, relating to such lands, as may now be pending, or may hereafter be instituted in the said courts, either on the application of the parties, or of its own motion; and the said courts shall, on application of the commission, transmit to it all the proceedings and papers relating to suits so removed. *Second.* The jurisdiction of the commission shall extend to such districts or portions of districts, and for such periods as the Governor General in Council may from time to time direct: notice of the orders of Government vesting the commission with local jurisdiction, or withdrawing jurisdiction given, to be published by proclamation within the several pergunnahs to which they may relate, and to be communicated through the sudder dewanny adawlut to the provincial and zillah courts concerned. *Third.* Whenever any of the said courts shall be apprized, in the manner aforesaid, of the appointment of the commission to exercise the aforesaid powers within any zillah or other local division, they shall forthwith stay all proceedings in cases of the description above specified, and shall not proceed to the investigation or decision of any such case, until they shall either receive intimation from the commission that it is not its intention to take cognizance of it, or until they shall be apprized by Government that the local jurisdiction of the commission has ceased. *Fourth.* When any suit may be removed by the commission from the court in which it may be pending, the price of the stamp paper used for the plaint or petition of appeal in lieu of the fee payable by

The operation of the foregoing clauses extended to persons holding under a title derived from the person originally benefitting by the sale or transfer.

Proviso.

Section 4.

In what cases the commission are to endeavour to effect a compromise between parties.

Compensation to be awarded by the commission in what cases.

Proviso.

Section 5.

The jurisdiction of the commission extended to cases already decided by the courts of justice, or depending before them.

Local jurisdiction of the commission to be from time to time fixed by the Governor General in Council, and notice of the same how to be given. Courts of justice how to proceed in suits before them which may be cognizable by the commission.

Commission and fees in such suits how to be disposed of.

the plaintiff or appellant, on the institution of the suit or appeal, shall be returned to the party by whom the amount may have been disbursed; and the commission, on deciding the suit, shall determine the amount of remuneration to be assigned to the vakeels who may have been employed by the parties in conducting the suit; and any sums which may have been received by the treasurer of the court, on account of the vakeel's fees, shall be kept in deposit until the determination of the commission shall be made known to the court, which shall and may pay the amount awarded by the commission to the vakeels, out of sums deposited by the parties employing them." § 6. "First. The commission shall determine, subject to the orders of Government, or of such other authority as the Governor General in Council may direct, its own form of proceeding, the nature of the pleadings, the mode in which they are to be conducted, the paper (stamp or unstamp) to be used, the fees to be levied, and generally the rules of practice to be followed. *Second.* All processes issued by the commission shall be enforced in the same manner and under the same penalties for disobedience or resistance as processes of zillah courts; and all powers possessed by the zillah courts, in regard to contempts, the summoning and examination of witnesses, and the administration of oaths, shall be vested in the commission; from whose order, in regard to such matters, no appeal shall lie, except to the sudder commission hereinafter mentioned. *Third.* The commission shall be competent either to execute its own decisions, with the same powers and authority as are vested in the zillah courts; or to require the zillah courts to give effect to such decisions, in like manner as they are required to execute the decrees passed by the provincial courts, or the sudder dewanny adawlut. *Fourth.* The several rules and provisions contained in the existing regulations, relative to the native officers belonging to the zillah courts, shall be applicable to the native officers attached to the said commission, except in cases in which the said commission may, with the sanction of the sudder commission hereinafter mentioned, or of the Governor General in Council, otherwise specially direct. *Fifth.* Any person giving a false deposition, whether upon oath or huluf namah, relative to any suit or matter depending before the commission, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall be liable to the penalties prescribed for that offence in the regulations; and any person causing or procuring another person to commit the offence of perjury as above described, shall be held to be guilty of subornation of perjury, and punishable under the provisions of the aforesaid regulations. *Sixth.* The commission shall be competent to commit persons guilty of the said offences for trial before the court of circuit, and any magistrate receiving a roobukaree from the commission, containing an order for the commitment of such offenders, shall proceed to give it effect, in like manner as if the commitment were made by himself." § 7. "It shall be the duty of the courts and of the collectors to afford the commission every aid and information that it may require; to serve all processes issued by the commission, which that authority may desire to have served by them, in like manner as if they were issued by themselves; to prepare and transmit to the commission such lists of the cases decided by, or pending before, them as the commission may see occasion to call for; and to furnish all papers and documents which the commission may wish to examine." § 8. "If any doubt shall arise in regard to the course of proceeding to be followed by the established courts, relatively to any suit or other matter of the nature of those cognizable by the aforesaid commission, or on any point connected therewith, it shall and may be lawful for the sudder dewanny adawlut to determine the question, subject to the final orders of the Governor General in Council, to whom the sudder dewanny adawlut shall report the circumstances of any cases

Section 6.
Form and nature of the proceedings before the commission how to be regulated.

Processes of the commission how to be issued and enforced.

Decisions of the commission how to be executed.

Native officers attached to the commission subject to what rules.

Persons guilty of perjury or subornation of perjury to be punishable under the regulations.

And may be committed by order of the commission for trial before the courts of circuit.
Section 7.
Courts and collectors to give their aid to the commission.

Section 8.
If cases of doubt arise between the courts and the commission, the sudder dewanny adawlut to decide, subject to the final orders of Government.

Section 9.
Powers of the
commission
over canoon-
goes and mo-
fussil officers
of account.
Section 10.
Sudder com-
mission to be
constituted.
Powers and
functions of
sudder com-
mission.

All decisions
of mofussil
commission to
be reported to
the sudder
commission,
and the latter
empowered to
revise, modify,
or annul such
decisions.
Parties dissa-
tisfied with de-
cisions of mo-
fussil commis-
sion may ap-
peal to the
sudder com-
mission.

In cases of a
difference of
opinion be-
tween the
members of
the mofussil
commission, a
reference to
be made to
the sudder
commission.

Cases of pecu-
liar import-
ance to be cer-
tified to the
sudder com-
mission.

Who will in
such cases pro-
ceed in the
same manner
as in cases
regularly
brought be-
fore them in
appeal.
Provision for
cases in which
the sudder
commission

of that nature that may arise." § 9. "The commission shall and may exercise, within the sphere of their jurisdiction, the same powers and authority over canoongoes, putwarries, and other mofussil officers of account, as the collectors and courts are now authorized to exercise." § 10. "*First.* A commission, to be denominated the sudder or chief special commission acting under the provisions of Regulation 1, 1821, shall be constituted for the purpose of superintending the proceedings of the aforesaid mofussil commission, and for reviewing the decisions passed by it. *Second.* The sudder commission shall consist of two or more such officers as the Governor General in Council may from time to time appoint, and shall, besides the powers exclusively belonging to them, possess and exercise all the powers and authority vested in the mofussil commission. The mofussil commission shall be guided by the instructions and orders of the sudder commission, in like manner as the courts of appeal and zillah courts are guided by the directions of the sudder dewanny adawlut; and the said sudder commission shall further have the power of issuing special instructions to the mofussil commission, in regard to the investigation of cases pending before the latter, whenever, from the representation of the parties or otherwise, they may consider such a measure to be expedient or proper. *Third.* All decisions passed by the mofussil commission shall be reported to the sudder commission, in such manner and form as the latter may direct, or as the Governor General in Council may prescribe; and it shall be competent to the sudder commission, in considering the reports so furnished, to call for the proceedings held by the mofussil commission in any case, and to revise, modify, or annul any order or decision which the mofussil commission may have passed or made. *Fourth.* In cases in which either of the parties may be dissatisfied with the decision passed by the mofussil commission, and may desire to appeal to the sudder commission, the whole of the proceedings held by the former shall be certified to the latter; who will call for such further information and direct such further proceedings to be held, as they may judge necessary or proper. In such cases it shall rest with the mofussil commission to determine, subject to any orders which they may receive from the sudder commission, whether they shall carry their decision into immediate effect, or await the result of the reference to the superior tribunal. *Fifth.* In cases in which the members of the mofussil commission, when consisting of two or more members, may not agree in opinion as to the decision or award to be passed or made in any case, they shall certify to the sudder commission the whole of the proceedings held by them; each member at the same time separately recording his judgment and the grounds of it; and similarly when any difference of opinion shall occur, in regard to the determination of any matter connected with or belonging to any case, pending before or decided by the said commission, a reference shall be made to the sudder commission; and the mofussil commission shall be guided by the directions which it may receive from the said sudder commission. *Sixth.* It shall likewise be the duty of the mofussil commission to certify to the sudder commission any cases of peculiar importance and difficulty, in which it may be desirous of obtaining a decision by the superior tribunal. But in all such cases the mofussil commission shall in the first instance record their own opinion on the merits of the case, and distinctly declare the judgment which they may think ought to be passed. *Seventh.* In cases certified to the sudder commission, under the provisions contained in the two preceding clauses, the sudder commission shall proceed in the same manner as in cases brought regularly in appeal before them; but no decision or award shall be passed or made in such cases by the mofussil commission, unless under instructions in that behalf from the sudder commission. *Eighth.* If in any case the members of the sudder commission shall not agree in opinion as to the decision, award, or

order to be passed or made, and the voices on each side shall be equal, the commission shall suspend its decision and report the circumstance to Government; and it shall in such cases be competent to the Governor General in Council to appoint one or more temporary members of the commission for the determination of the question in dispute. Where a majority of the commission shall concur in one opinion, the decree, award, or order, shall be made according to the resolution of such majority, and shall have the same force and effect as if made by all the members conjointly." § 11. "First. The decisions of the mofussil commission, unless revised and altered by the sudder commission under the rule contained in the third clause of the preceding section, or appealed to the sudder commission within the period of six months from the time of its being passed, or such further period as may be fixed by that authority, subject to the orders of the Governor General in Council, shall be final. *Second.* In cases which, if decided by the sudder dewanny adawlut, would be appealable to his Majesty the King in Council, a similar appeal will lie from the decisions or awards of the sudder commission; and the same rules and regulations as are or may be applicable to all appeals from the aforesaid court, shall be applicable to all appeals from the decisions or awards of the said commission: provided however that all decisions passed, or awards made, by the sudder commission, shall be immediately executed and enforced, notwithstanding the institution of such an appeal. All decisions and awards passed by the sudder commission shall be final, unless regularly appealed to his Majesty in Council. *Third.* The said commissions, and each of them, shall, in all cases received or investigated by them respectively, be competent to determine all pleas or questions touching their jurisdiction, in the same manner, and with the same powers, as they are or may be authorized to determine on the merits of cases, of which the cognizance is expressly vested in them, any thing in the existing regulations to the contrary notwithstanding; and no exception shall be taken to any decision or award passed or made by the said commissions, or either of them, on the ground that the case in or concerning which such decision or award may have been passed or made, was not regularly within the cognizance of the commission by which it was passed or made, or on any plea or pretext whatsoever, saving and except by the sudder commission, in cases appealed or certified to it from the mofussil commission, or by his Majesty the King in Council in cases appealable to that authority; nor shall any court of judicature interrupt or stay any proceeding of the said commissions, or either of them, in any cases received, investigated, or determined by them respectively." § 12. "First. The sudder and mofussil commissions shall, where not otherwise specially directed, be guided generally by the principles and spirit of the existing regulations, or where those may not be applicable, by equity and good conscience. *Second.* Provided also that it shall and may be lawful for the said commissions, and each of them, to propose regulations regarding any matters coming within their cognizance, in the manner prescribed for the courts of judicature; and if any provision in the existing regulations applicable to any case depending before the mofussil or sudder commission, shall appear to them, or either of them, to be inequitable or improper, it shall be competent to the commission before which the case may be depending, to stay its proceedings, for the purpose of submitting a draft of such rules as may appear necessary for the amendment of the existing code: and to await the result of the reference, and finally to proceed in and determine the case according to the law, as ultimately declared or enacted: making of course due compensation to any one whose rights under the existing law may be affected by their decision. *Third.* Before entering on the performance of their functions, the members of the said commissions shall bind themselves to

may not agree in opinion and the number of voices on each side may be equal.

Section 11. In what cases the decision of the mofussil commission to be final.

In what cases an appeal to be admitted from the decisions of the sudder commission to his Majesty in Council. Proviso.

Questions connected with the jurisdiction of the commissions how to be determined.

Courts of justice not to interrupt or stay the proceedings of the commissions. Section 12. The commissions to be guided generally by the principles of the regulations. Commissions may propose new regulations, or may submit rules for amending any part of the existing code in matters connected with the duties entrusted to them. Oath to be taken by the members of the commissions.

the faithful discharge of the duties entrusted to them, by a solemn oath, in such form, and to be taken before such person or persons, as the Governor General in Council may direct."

R. 2, 1821.

" A. D. 1821. REGULATION II."

Title.

" A Regulation for increasing the powers of moonsiffs ; for extending, in special cases, the powers of sudder ameens in the trial and decision of civil suits ; and for authorizing the zillah and city registers, and sudder ameens, to discharge certain additional duties under the direction of the zillah and city judges ; for providing for an increase in the number of moonsiffs when necessary ; and for authorizing sudder ameens to hold their cutcherries at any place where there may be a register holding his court at a distance from the fixed station of the judge and magistrate ; also for amending the rules at present in force for the institution of suits connected with the local jurisdiction of such registers ; for rescinding such parts of the existing regulations as authorise the registers of civil courts to receive a proportion of the institution fees on suits which may be referred to them for decision ; for altering, in certain cases, the rule at present in force for the execution of decrees of the provincial courts in original suits, and of the decrees of the court of sudder dewanny adawlut on appeals from such decrees ; and for abolishing the office of register of the provincial courts of appeal and circuit : passed by the Governor General in Council on the 19th of January, 1821."

Preamble.

" Whereas from the contracted powers exercised by the subordinate judicial officers, European and Native, under the existing regulations, a much larger proportion of business devolves on the zillah and city judges than can properly be discharged by them ; and whereas the relieving them from part of that business, by increasing the powers of the registers, sudder ameens, and moonsiffs, will tend to expedite the general administration of justice ; and whereas it has become necessary to provide for an increase in the number of moonsiffs, in consequence of the number prescribed by the regulations, of one to each thannah jurisdiction, having been found in some places insufficient ; and whereas great inconvenience is experienced from the want of sudder ameens at those places where registers are permanently fixed at a distance from the sudder station, as well as from the said registers not being vested with powers to admit suits arising within the limits of their local jurisdictions ; and whereas it is expedient, with a view to afford still further relief to the judges of the zillah and city courts held at the same place with the provincial courts, that the provincial courts should execute their own decrees in original suits, and the decrees of the sudder dewanny adawlut in appeals from such original suits, within the local limits of the jurisdiction of the aforesaid judges ; and whereas it is also expedient that the judges of the zillah and city courts should be empowered to refer summary suits to any amount, for the recovery of arrears of rent, and for possession of land, crops, and other property, in cases of forcible dispossession, to such of their registers as may be vested with any of the special powers specified in Regulation 24, 1814 ; and whereas it is also expedient to substitute a fixed allowance in lieu of the fees hitherto granted to the registers of zillah and city courts on the decision of civil suits, and to abolish the office of register to the provincial courts of appeal and circuit ; the following rules have been enacted, to be in

force from the date of their promulgation throughout the territories subject to the presidency of Fort William."

§ 2. "If the civil business within the limits of a thannah cannot conveniently be discharged by one moonsiff, as prescribed by Section 6, Regulation 23, 1814, the provincial courts are hereby authorized, on the recommendation of the city or zillah judge, to augment, from time to time, the number of those officers as circumstances may require." § 3. "First. Persons invested with the powers of moonsiffs are authorized to receive, try, and determine, all suits preferred to them against any native inhabitant of their respective jurisdictions, for money or other personal property, not exceeding in amount or value the sum of one hundred and fifty sicca rupees; provided the cause of action shall have arisen within the period of three years previously to the institution of the suit, and that the claim include the whole amount of the demand arising from such cause of action, and that the claim be really as prescribed in Clause First, Section 13, Regulation 23, 1814, for money due, or for personal property, or for the value of such property, and be not for damages on account of alleged personal injuries, or for personal damages of whatever nature. *Second.* The prohibitions contained in the second and third clauses of Section 13, Regulation 23, 1814, are hereby declared applicable to the suits above-mentioned. *Third.* In suits instituted before the moonsiffs under the foregoing clause, stamp duties shall be levied in conformity with the provisions contained in Section 70, Regulation 23, 1814; and the compensation to which the moonsiffs shall be entitled for their trouble in the trial of such suits, shall be adjusted in conformity to the rules contained in Section 49, of the same regulation. *Fourth.* The provisions contained in the existing regulations relative to the trial and decision of suits already cognizable by the moonsiffs, are hereby declared to be equally applicable to suits which may be instituted before those officers, under this regulation." § 4. "By Section 20, Regulation 5, 1812, it is provided, that suits instituted under that regulation for the recovery of arrears of rent, may be decided by the zillah and city judges on summary enquiry; it was not however intended by that provision to preclude individuals from instituting a regular suit in the first instance for the more formal investigation of the merits of the case, either before the moonsiffs, or in the zillah and city or provincial courts, according to the amount at issue; and the zillah and city judges are hereby enjoined to encourage, as much as possible, that mode of procedure, as well in the suits above adverted to, as in all other claims for arrears of rent which may be cognizable by summary process under the existing rules, whenever it may, in their opinion, lead to a more prompt and satisfactory determination of the points at issue." § 5. "First. It shall be competent to the sudder dewanny adawlut to invest any person exercising the functions of a sudder ameen, with the power to try and determine original civil suits, in which the value or amount of the claim may not exceed five hundred rupees. *Second.* In addition to the powers vested in the sudder ameens under the provisions of Section 68, Regulation 23, 1814, and Clause Second, Section 7, Regulation 24, 1814, the zillah and city judges are authorized to refer to a sudder ameen, duly empowered under the preceding clause, any depending civil suits, with the exceptions specified in Section 68, Regulation 23, 1814, in which the value or amount of the claim, calculated according to the provisions of Section 14, Regulation 1, 1814, Section 23, Regulation 26, 1814, and Section 5, Regulation 19, 1817, may not exceed five hundred rupees. *Third.* Suits referred to sudder ameens, in which the value or amount of the claim may exceed one hundred and fifty sicca rupees, shall be received, tried, and determined, in conformity with the provisions of Regulation 23, 1814. In suits, however, which may be referred to sudder ameens under the preceding

Section 2.

The provincial courts empowered to increase the number of moonsiffs on the recommendation of a city or zillah judge.

Section 3.

Moonsiffs empowered to try and decide on suits not exceeding 150 rupees.

Proviso.

Prohibitions in R. 23, 1814, applicable to such suits.

The payment of stamp duties and compensations to moonsiffs how to be regulated.

Rules in force declared applicable to suits instituted under this regulation.

Section 4.

City and zillah judges to encourage the institution of regular, instead of summary suits, in certain cases.

Section 5.

Sudder dewanny adawlut may invest sudder ameens with authority to try original suits not exceeding 500 rupees.

City and zillah judges authorized to refer depending civil suits to such ameens, provided the computed amount of each claim does not exceed 500 rupees.

Exceptions.

Sudder ameens to be guided by the provisions contained in R. 23, 1814. But to receive only a moiety of the institution fee, or stamp duty,

when the claim exceeds 150 rupees.

Certain clauses of Section 8, R. 24, 1814, applicable to such cases.

Section 6. Section 67, R. 23, 1814, modified, and sudder ameens authorized to hold their cutcherries at any place where a register may be stationed.

Proviso. Section 7. Modification of rules in force which require that decrees passed by sudder ameens and moonsiffs be executed under the orders of a city or zillah judge. The judge may refer to the register applications for the execution of decrees of sudder ameens and moonsiffs. By what officers the orders to be executed on such occasions.

Section 8. Modification of rules in force which require the provincial courts to direct their decrees being executed by the city and zillah judges.

In what cases the provincial courts of appeal are to execute their own decrees, as well as the decisions in appeal of the sudder dewanny adawlut.

Section 9. Judges of city and zillah courts may refer summary suits of any amount to

clause, in which the value or amount of the claim may be above one hundred and fifty rupees, but may not exceed five hundred rupees, the sudder ameens shall be entitled to receive one moiety only of the institution fee, or of the amount of the stamp duty substituted for such institution fee by Regulation 1, 1814. *Fourth.* The provisions of Clauses Third, Fourth, Fifth, and Sixth, Section 8, Regulation 24, 1814, are hereby declared applicable to suits referred for trial to the sudder ameens, in which the value or amount of the claim may be above one hundred and fifty rupees, but may not exceed five hundred rupees." § 6. "By Section 61, Regulation 23, 1814, the number of sudder ameens, to be employed in each zillah or city, is declared to be unlimited, and the provincial courts may at all times exercise their discretion in diminishing or augmenting the number of those officers. In modification, however, of the rule contained in Section 67 of the said regulation, by which sudder ameens are required to hold their cutcherries at the station where the zillah or city court is held, it is hereby declared that one or more sudder ameens may be employed, and may hold their cutcherries at any place where a register may be stationed at a distance from the zillah or city court to which he is attached. Such sudder ameens shall exercise the same powers and functions, and shall be entitled to the same compensation, as sudder ameens at the station of the judge; provided however that original suits and appeals referrible to such sudder ameens shall be referred in the mode prescribed by Section 11, of this regulation." § 7. "*First.* Petitions for the execution of decrees in civil suits shall be presented as heretofore, in the manner prescribed by the several clauses of Section 15, Regulation 26, 1814, but such parts of the regulations as require that decrees passed in civil suits by the sudder ameens, or by moonsiffs, shall be executed or enforced under the special orders of the zillah and city judges, are declared subject to the following modifications. *Second.* Whenever the miscellaneous business depending in a zillah or city court would occupy a larger portion of time than the judge can conveniently devote to it, he is authorized to refer to the registers all applications for the execution of decrees passed by the sudder ameens or moonsiffs. In these cases, an appeal from the orders of the register or sudder ameen will lie in the first instance to the judges, and specially to the provincial court. *Third.* All orders issued by registers or sudder ameens in cases so referred to them, shall be executed by the officers of the zillah and city courts, under the rules prescribed in the general regulations for the execution of decrees." § 8. "Such parts of Section 6, Regulation 5, 1793, extended to Benares by Section 6, Regulation 9, 1795, and to the ceded and conquered provinces by Section 6, Regulation 4, 1803, as prescribe that the provincial courts of appeal shall order the decrees which they may pass, to be executed by the judge of the proper zillah and city court, are hereby modified; and it is declared that the decrees passed by the judges of the provincial courts, in all original regular suits relating to the jurisdiction of the zillah or city court, within the local limits of which the provincial courts are situated, and the decisions of the court of sudder dewanny adawlut in appeal from all such decrees, shall be executed by the provincial courts themselves; and all orders issued by the judges of those courts, in such cases, shall be executed by the officers attached to the said provincial courts respectively, under the rules prescribed in the general regulations for the execution of decrees." § 9. "In addition to such provisions of the existing regulations as authorize the judges of the zillah and city courts to refer to their registers summary suits for the recovery of arrears of rent, or for possession of land, crops, or other property, in cases of forcible dispossession, provided that the cause of action would be referrible to their registers in a regular suit; it is hereby declared that the zillah and city judges may refer to such of their registers as may be

vested with any of the special powers under Regulation 24, 1814, summary suits of any amount depending before them, concerning arrears of rent, or regarding forcible dispossession from lands or crops, or disturbance in the possession thereof: provided always that the zillah and city judges may at any time recal such suits, or any other miscellaneous cases referred to a register, on the representations of the parties or otherwise, in such manner as they may deem just and proper." § 10. "First. Whereas the speedy and satisfactory adjustment of summary suits, of the description mentioned in the preceding sections, will be promoted by authorizing the trial and decision of such suits at any place within the limits of the jurisdiction in which the cause of action may have arisen, such parts of the regulations in force as prescribe that the zillah and city courts shall be held in the city or place at which they are respectively established, and that no rule, order, or proceeding, is to be made, but on court days, and in open court, are hereby declared subject to the following modifications. *Second.* The judges and registers of the zillah and city courts are empowered to hold their proceedings in summary suits regarding rent or dispossession from lands, or crops, or disturbance in the possession thereof, at any place within the jurisdiction of the courts to which they may be respectively attached; provided that the cause of action shall have arisen within the limits of such jurisdiction, and that the zillah or city judge or register, shall be of opinion that the investigation of the case can be more conveniently conducted at such place than at the sudder station. *Third.* The established pleaders of the zillah and city courts shall not be required to attend the trial of summary suits at a distance from the fixed station of the judge or register. Such suits shall be tried in the presence of the parties, or any persons whom they may duly appoint to be present at the trial on their behalf. *Fourth.* The principle of the foregoing rules is hereby declared to be equally applicable to summary suits referred for investigation to the collectors." § 11. "First. Such parts of the regulations in force as require that suits referrible to a register shall be instituted in the first instance in the courts of the zillah and city judges, are hereby declared subject to the following modifications. *Second.* It shall be competent to a register, stationed at any other place than the fixed station of the zillah or city court, to receive in the first instance any original suits or appeals, which may be eventually referrible to him under the regulations in force, in which the cause of action may have arisen, or the parties may reside, within the local jurisdiction entrusted to him as joint magistrate of the district of which he may be the register, or officiating in that capacity. *Third.* When an original suit or appeal shall be preferred to a register under the provisions of the preceding clause, he shall, after receiving the same, enter it in the register usually kept for that purpose, and shall forward, by dawk or otherwise, a copy of the petition of complaint or appeal, together with copies of any other papers connected with it that may be necessary, to the zillah or city court, for the orders of the judge; who, after causing the same to be registered, will either authorize the suit to be tried and determined by the register or the sudder ameen stationed with the register, according to the nature or amount of the suit; or will require the case to be transmitted for trial, either by himself, or any other competent authority. In the latter case, the plaintiff or appellant shall be required to attend in person, or by vakeel, to prosecute the suit in the court in which the case may have been ordered to be tried, at the sudder station." § 12. "All applications for the execution of decrees passed by the sudder ameens and moonsiffs, within the local jurisdiction of the registers fixed at any other than the sudder station of the zillah or city court, are hereby authorized to be received by such registers; who shall be competent to execute them themselves, or to refer them for execution to the sudder ameens within their

their registers if they are vested with special powers.

Proviso. Section 10. Modification of rules in force relative to the place at which the zillah and city courts are to be held.

Judges and registers empowered to hold their proceedings in summary cases at any place within the jurisdiction of the court to which they may be attached.

Proviso. Pleadors exempted from attending the trial of summary suits at a distance from the station of the judge or register.

Same rules applicable to summary suits referred to the collectors.

Section 11. Modification of rules which direct that suits referrible to registers shall be instituted in the courts of the judges.

Registers at other than the fixed stations of the courts may in the first instance receive original suits or appeals.

How registers are to proceed on the receipt of such suits or appeals.

Section 12. In what cases registers may receive applications for the execution of decrees of sudder ameens and moonsiffs.

And execute them or refer them to the sudder ameens.

Section 13. Certain clauses of regulations which authorize registers to receive fees on the amount of stamp duty on the decision of suits, rescinded.

Registers to receive a fixed allowance, instead of fees, after 30th April, 1821.

Section 14. Office of register of the provincial courts abolished, and duties by whom to be performed.

respective jurisdictions, in the mode prescribed by Clause Third, Section 7, of this regulation. Appeals from the orders of the sudder ameens shall in like manner be made in the first instance to the said registers." § 13. "The several clauses of Section 8, and Section 9, Regulation 24, 1814, and generally any other provisions of the regulations, which authorize the registers of the zillah and city courts to receive a proportion of the fees, or the amount of stamp duty substituted for such fees by Regulation 1, 1814, on the decision of suits referred to them for trial, are hereby rescinded. The registers of the zillah and city courts shall not be entitled to any fees whatever on account of any civil suits decided by them subsequently to the 30th of April next ensuing; but are to receive, from the 1st of May next, in lieu of such fees, a fixed allowance, the amount of which will be determined by Government." § 14. "The office of register of the provincial courts of appeal and circuit shall be abolished from the 1st of May next ensuing; and the duties hitherto entrusted to those officers shall be performed by the judges of the provincial courts, and by the officers on their establishment, in such mode and under such rules as may be enjoined by the court of sudder dewanny adawlut and nizamat adawlut."

R. 3, 1821.

" A. D. 1821. REGULATION III."

Title.

" *A Regulation for extending, in special cases, the powers of assistants to the magistrates; for empowering the Hindoo and Mohummudan law officers of the zillah and city courts, and sudder ameens, to try and determine petty thefts, and other criminal cases of a trivial nature, when referred to them by a magistrate; for limiting the period of appeal in foudarry cases; for rescinding parts of Section 12 and Section 17, Regulation 22, 1816; for modifying some of the rules in force relative to the rate and collection of the assessment levied for the maintenance of chokeedars of police; and for vesting the magistrates with certain powers in regard to persons travelling through, or assembling within, their jurisdictions, under suspicious circumstances: passed by the Governor General in Council, on the 19th of January, 1821.*"

Preamble.

" Whereas the powers now vested in assistants to the magistrates by Section 20, Regulation 9, 1807, do not enable them to afford that aid to the magistrates which the state of public business in many districts requires, it is advisable to authorize in certain cases an increase of those powers: it is also deemed expedient, with a view to the speedy trial and punishment or acquittal of persons charged with petty offences, and to the due administration of criminal justice in cases of a trivial nature, to empower the Hindoo and Mohummudan law officers of the zillah and city courts, and the sudder ameens, to try and determine such cases, when referred to them by a magistrate; and to guard against the inconvenience which has been experienced from the unlimited privilege at present exercised of appealing in foudarry cases; and whereas it has been found expedient to rescind Clause Second, and such parts of Clause First, Section 12, Regulation 22, 1816, as require that persons considering themselves aggrieved by the assessment authorized to be levied for the maintenance of the chokeedars of police, shall present a

petition to the magistrate or joint magistrate on stamp paper ; and to authorize the judges holding the sessions of jail delivery to report upon any abuses or irregularities which may appear to them to exist in the management and collection of the assessment levied for the support of chokeedars of police ; and whereas there is reason to believe that persons, being the subjects of foreign states, often enter the territories of the British Government in large bodies, under the assumed character of travellers of rank and distinction, for the sole purpose of robbery and plunder ; and as it is necessary to vest the zillah and city magistrates and joint magistrates with sufficient powers to prevent such practices ; the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the presidency of Fort William." § 2. " *First.* Whenever the accumulation of judicial business in a zillah or city may render it impracticable for a magistrate to discharge it with sufficient dispatch, and the court of nizamut adawlut may be of opinion, either in consequence of a report from the magistrate of such zillah or city, or from any other information before them, that the assistant of such magistrate is duly qualified by his experience, industry, and abilities, to be entrusted with the special powers described in the third clause of this section ; the nizamut adawlut shall report accordingly to Government. *Second.* On the receipt of such report from the nizamut adawlut, or upon any other information before Government, it shall be competent to the Governor General in Council to invest such assistants with the special powers described in the following clause ; and information shall be communicated, in every instance in which such powers may be vested in an assistant, to the nizamut adawlut, to the court of circuit, and to the zillah or city magistrate. *Third.* Section 20, Regulation 9, 1807, is hereby modified ; and in addition to the powers vested in the assistants to the zillah and city magistrates, by the regulations heretofore in force, they may be specially empowered, in all cases referred to them, in which an individual may be convicted of any criminal offence punishable under the Mohummudan law and the regulations, for which the penalties authorized by the section above quoted may appear insufficient, and for which a more severe punishment than six months' imprisonment with thirty ratans, or a fine of two hundred rupees, may not have been specially prescribed, to pass sentence of imprisonment, not exceeding six months, with corporal punishment not exceeding thirty ratans, in cases in which corporal punishment by stripes is authorized by the regulations, or, in other cases, with a fine not exceeding two hundred rupees, commutable, if not paid, to a further period of imprisonment, not exceeding six months, so that the entire period of imprisonment, under the sentence of an assistant, shall, in no instance, exceed one year. *Fourth.* In any case referred to the assistant of a zillah or city magistrate under the regulations in force, in which the offence proved against the prisoner may appear to require a more severe punishment than he is by the foregoing clause authorized to adjudge, he shall not pass any sentence ; but shall submit his proceedings to the magistrate, who, after holding any further proceedings he may deem necessary, will, if satisfied of the guilt of the prisoner, either pass sentence on him, under Regulation 12, 1818, and the general regulations in force, or will commit or hold him to bail for trial before the court of circuit, according to the nature and circumstances of the case. *Fifth.* The rules contained in Sections 21 and 22, of Regulation 9, 1807, are to be considered applicable to all cases referred to the assistants, of the description specified in this Section. *Sixth.* The magistrates are moreover at all times authorized to recal from their assistants any depending cases, which may have been referred to them under the present or former regulations, and which for the more speedy administration of justice, or for any other reason,

Section 2. Nizamut adawlut to report on qualifications of assistants to magistrates, in cases of accumulation of business in zillah and city courts.

Governor General in Council empowered to invest such assistants with the special powers described in Clause Third of this regulation.

Section 20, R. 9, 1807, modified, and additional powers vested in assistants to magistrates.

In what cases assistants to magistrates not to pass sentence, but submit their proceedings to the magistrate.

Rules by which assistants are to be guided in cases thus referred to them. Magistrates may recal cases referred to their assistants.

Successors to assistants vested with special powers, not to exercise those powers unless authorized by Government. The Governor General in Council may revoke the special powers entrusted to an assistant.

Section 3. Magistrates may refer petty complaints to their native law officers. And also cases heretofore referrible to assistants in the mode prescribed by the existing regulations. Such law officers empowered to exercise the powers vested in assistants to magistrates under the regulations in force. Exposition of the rules referred to in such cases. Persons imprisoned under sentences of the law officers not to be confined in irons or fetters, unless deemed necessary by the magistrate. Law officers to furnish the magistrates with monthly statements of decisions passed by them.

Section 4. Foregoing rules applicable to sudder ameens empowered to try civil suits exceeding one hundred and fifty rupees, and to those appointed to the stations of joint magistrates.

Section 5. Limitation of time for appeals from decisions of assistants and sudder ameens, and

the magistrates may deem it proper to determine themselves in the first instance. *Seventh.* Upon the death, removal, or resignation of any assistant, who may have been invested with special powers under the provisions of this regulation, the person succeeding to the office of assistant, shall in no case be entitled to exercise such special powers, without the previous sanction of the Governor General in Council; and it shall at all times be competent to the Governor General in Council to revoke the special powers, which may have been entrusted to the assistant of a zillah or city magistrate under this section, for any cause which, in the opinion of the Governor General in Council, may render the adoption of that measure expedient." § 3. "*First.* The zillah and city magistrates are authorized to refer for trial to the Hindoo and Mohummudan law officers of their respective courts, all complaints or charges brought before them for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and all charges of petty thefts when unattended with any aggravating circumstances. *Second.* The magistrates of the zillah and city courts shall be competent to refer to their law officers any criminal cases, which they are already authorized by former regulations to refer to their assistants; and in the mode of making the reference, and in the subsequent stages of the proceeding, the magistrates and the law officers shall be guided by the provisions hitherto in force relative to such cases. *Third.* The law officers of the zillah and city courts, in the decision of criminal cases so referred to them, are hereby authorized to exercise the same powers as those vested in the assistants to the magistrates, by Section 20, Regulation 9, 1807, and by the other regulations therein referred to; that is, in cases referred to them for trial, they shall not sentence a person convicted of abusive language, or calumny, or inconsiderable assault or affray, to a more severe sentence than fifteen days' imprisonment, and a fine of fifty rupees, with an eventual commutation, if the fine be not paid, to further confinement for fifteen days more, making the entire term of imprisonment, if the fine be not paid, one month of thirty days. Nor shall they sentence a person convicted of petty theft to a more severe corporal punishment than thirty ratans, and imprisonment for a period of one month. Persons sentenced to imprisonment by the law officers shall not, during their imprisonment, be confined in irons or in fetters, except in cases in which the misconduct of such individual, during his imprisonment, shall appear to the magistrate to render such measure necessary for his safe custody. *Fourth.* The law officers of the zillah and city courts shall forward to the magistrates, on the fifth day of each month, a statement showing the manner in which the cases referred to them may have been disposed of; in order that the same, after having been carefully inspected by the magistrates, with the view of noticing and eventually correcting any irregularities, may be incorporated in the periodical reports required to be submitted to the superior courts." § 4. "The foregoing provisions are hereby declared to be equally applicable to any of the sudder ameens, who may be empowered under Section 5, Regulation 2, 1821, to try civil suits exceeding in value or amount the sum of one hundred and fifty rupees; and likewise to all sudder ameens whether vested with such powers or not, who may be appointed to the stations of the joint magistrates; and the latter officers are hereby authorized to employ such sudder ameens in the manner above specified." § 5. "*First.* No appeal shall be admitted from the order of an assistant, or a sudder ameen, in cases referred to them of a criminal nature by the magistrate, or joint magistrate, unless preferred within the period of one month from the date of such order. Nor shall any appeal from the order of a magistrate, or joint magistrate, be admitted, unless preferred to the court of circuit at the sudder station, within the period of one month from the date of the order, or to a judge of circuit

holding the sessions next ensuing after such order shall have been passed, unless it shall be proved that the petitioner was prevented, by circumstances totally beyond his control, from presenting his petition within the prescribed period. *Second.* In calculating the period of one month above specified, the courts shall be guided by the principles of the rules contained in Clause Tenth, Section 8, Regulation 26, 1814." § 6. "*First.* The whole of Clause Second, and such parts of Clause First, Section 12, Regulation 22, 1816, as require that petitions of appeal from the assessment fixed by the punchayet for the maintenance of chokeedars of police, shall be presented on stamp paper, are hereby rescinded. *Second.* The magistrates and joint magistrates are empowered and required, notwithstanding any thing to the contrary contained in Section 19, Regulation 28, 1814, to receive on unstamp paper, all petitions which may be preferred to them by persons considering themselves aggrieved by the assessment, which may have been fixed by the punchayet, appointed under the provisions of Section 9, Regulation 22, 1816. *Third.* When petitions of the above nature shall be presented to a magistrate, or joint magistrate, he shall proceed upon them as directed in Clause First, Section 12, Regulation 22, 1816. It shall however be competent to the judges of circuit holding the jail delivery, on the receipt of information leading them to be of opinion that the rate of assessment is too high, or otherwise essentially wrong or defective in any respect, to report their sentiments on the subject to Government, in order that, after making such further enquiries as may be necessary, suitable measures may be adopted for the revision or correction of the assessment." § 7. "*First.* Whereas persons being the subjects of foreign states, and assuming the fictitious characters of rajahs or of natives of distinction, or of pilgrims, have frequently entered into the British territories, or have assembled together in armed bodies, for the purpose of committing robberies or other crimes within those territories, the following rules have been enacted, with a view to prevent the recurrence of those practices. *Second.* In addition to the powers vested in darogahs of police, by the several clauses of Section 20, Regulation 20, 1817, with regard to the apprehension of all vagrants and suspicious persons, they are hereby empowered to detain all persons travelling in bodies through their jurisdictions, or assembling therein, under circumstances leading to the suspicion that they have assumed a fictitious character, and that they are in reality persons of the description mentioned in the preceding clause; and unless on examination they shall be able to give a satisfactory account of themselves, the darogahs shall, without delay, either report to the magistrates the circumstances under which they may have been detained, or in cases of an emergent nature, shall forward such individuals to the magistrates. *Third.* If a darogah of police, acting under the discretion vested in him by the preceding clause, shall not see sufficient cause, after the examination of the persons suspected, to send them to the magistrate, or to detain them until the orders of the magistrate shall be received, but shall nevertheless entertain suspicions of their real character and intentions, he shall depute one or more police officers to watch their proceedings in passing through his jurisdiction, and shall notify the same to the adjoining police division, in order that the same precautions may be adopted and followed up. *Fourth.* If a darogah of police shall forward to the magistrate any persons travelling through, or assembling in his division, under suspicious circumstances, the magistrate having duly enquired into the grounds of their arrest, shall either release them, or adopt the precautionary measures directed in the preceding clause; or, if they appear to be travelling without any reasonable object, and to be inhabitants of a remote district, or subjects of a foreign state, he shall compel them to return, under a suitable guard, from station to station, to the district

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R. 4, 1821.

"A. D. 1821. REGULATION IV."

Title.

"*A Regulation for authorizing a collector of land revenue, or other officer employed in the management or superintendence of any branch of the territorial revenues, to exercise, in certain cases, the powers of magistrate, or joint magistrate; and for authorizing a magistrate, or joint magistrate, or assistant to a magistrate, to exercise, in certain cases, the powers of a collector of land revenue, or of any other officer employed in the management or superintendence of any branch of the territorial revenues:—Also, for explaining the duties of an assistant to a collector of revenue, and for defining the duties and powers vested in assistant collectors or other officers appointed to the charge of the revenues of pergunnahs or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to collectors of land revenue: passed by the Governor General in Council, on the 19th of January, 1821.*"

Preamble.

"Whereas it may be expedient to authorize a collector of land revenue, or other officer employed in the management or superintendence of any branch of the territorial revenue, to exercise, in certain cases, the whole or any portion of the powers at present exercised respectively by a magistrate, or joint magistrate, or to vest the powers of a collector of revenue, or any portion thereof, in the hands of a magistrate, or joint magistrate, or of an assistant to a magistrate; and whereas it is expedient to explain the duties which may be performed by the assistants to the collectors of revenue, and to define the duties and powers vested in assistant collectors or other officers when appointed to the charge of the revenues of pergunnahs or other local divisions, or when employed in the performance of any portion of the functions ordinarily belonging to collectors of the land revenue; the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the presidency of Fort William." § 2. "It shall be competent to the Governor General in Council to authorize a collector of revenue, or other officer employed in the management or superintendence of

Section 2. Governor General in Council declared competent to authorize a collector or other revenue officer to exercise the

any branch of the territorial revenues, to exercise the whole or any portion of the powers and duties vested by the regulations in the magistrates or joint magistrates; or to employ a magistrate, joint magistrate, or an assistant to a magistrate, in the collection of the public revenue, and to invest the person so employed with the whole or any portion of the powers of a collector of revenue, or of other officer employed in the management or superintendence of any branch of the territorial revenues." § 3. "First. If a person holding the office of magistrate, or joint magistrate, or assistant to a magistrate, shall be employed in the collection of the public revenue, he shall, previously to entering upon the execution of the duties of a collector, take and subscribe the oath prescribed by Section 25, and Section 26, Regulation 5, 1804. *Second.* In like manner, if a person holding the office of collector of revenue, or of any other officer employed in the management or superintendence of any branch of the territorial revenues, shall be appointed to perform the duties of magistrate, or joint magistrate, he shall, previously to entering upon the execution of such office, take and subscribe the oath prescribed by Section 2, Regulation 9, 1793, and Clause First, Section 3, Regulation 13, 1793, with such verbal alterations only, as may be consonant to the nature of the appointment." § 4. "First. If a person holding the office of magistrate, joint magistrate, or of assistant to a magistrate, shall be employed in the collection of the public revenue, he shall be guided, in the execution of his duty as collector, by the orders of the board of revenue, or the board of commissioners, and by the rules and regulations that have been, or may be enacted for the collection of the public revenue. *Second.* If a person holding the office of collector of revenue, or otherwise employed in the management or superintendence of any branch of the territorial revenue, shall be appointed to perform the duties of magistrate, or joint magistrate, he shall be guided in the execution of those duties by the regulations which have been, or may be, enacted for the guidance of those officers respectively, and by the orders of the superior courts of criminal judicature, in all matters in which a controlling, or superintending power, is vested in those courts." § 5. "Every magistrate, or joint magistrate, or assistant to a magistrate, who may be employed in the collection of the revenue, and every collector or other officer employed in the management or collection of the territorial revenues, who may be authorized to exercise the powers of a magistrate, or joint magistrate, under the provisions of this regulation, shall be careful to preserve the records of their judicial and revenue offices separate, and distinct from each other." § 6. "First. Such parts of the existing regulations as declare the collectors of revenue to be amenable to the zillah and city courts, for any acts done by them in their official capacity, in opposition to the regulations, shall be held applicable to any magistrate, or joint magistrate, or assistant to a magistrate, who may be employed in the collection of the public revenue. *Second.* Provided always that if such individual shall, at the same time, hold the office of judge of the zillah or city in which the act in question may have been committed, such act shall not be cognizable by the zillah or city court, but by the provincial court of the division in which such zillah or city may be included." § 7. "In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by the collector in the zillah or city courts is authorized, or directed by the regulations, a magistrate, or joint magistrate, or assistant to a magistrate, employed in the collection of the revenue, not being himself in charge of the office of judge of a zillah or city court, shall proceed according to the regulations already in force for the guidance of the collectors under similar circumstances." § 8. "First. It is hereby declared and enacted, that it is and shall be lawful for the Governor General in Council to cause such alter-

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Section 3. Magistrates, &c. employed in the collection of the public revenue to take a prescribed oath. Collectors and other revenue officers appointed to the discharge of duties of a magistrate to take the prescribed oath.

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Proviso.

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ations to be made in the limits of the several collectorships, and in the number of the officers employed as collectors of land revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants of the Honorable Company, with authority to exercise the whole or any part of the functions ordinarily exercised by collectors of land revenue, in such mehal or mehals belonging to such district or districts as may from time to time be deemed expedient: and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same conditions and liabilities, as attach to collectors of land revenue in regard to such duties. *Second.* It shall also be competent to the board of revenue, or other authority exercising the powers of that board, to depute any of the officers subordinate to their authority, to exercise and perform all or any of the powers and duties ordinarily vested in collectors of land revenue within such local limits as they may judge expedient; provided however that in all such cases the board, or other authority aforesaid, shall, on the day in which they may depute any officer as aforesaid, or as soon after as practicable, report their having done so for the information and orders of the Governor General in Council. *Third.* The collectors of revenue are hereby authorized, with the sanction of the board of revenue, or the boards of commissioners, to delegate to their assistants any part of their prescribed duties, which, from the extent of their general business, or other cause, they may be unable to give due attention to themselves; provided always, that in the event of a collector deputing his assistant to make local enquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the board of revenue, or board of commissioners, to which he may be subordinate. *Fourth.* Previously to entering upon the duties of his office, an assistant to a collector shall take and subscribe an oath corresponding with that prescribed by Section 25, and Section 26, Regulation 5, 1804, for servants of the Company employed in the management and collection of the public revenue. *Fifth.* Assistants or other officers exercising the powers of collectors of revenue, or any portion thereof, under the provisions of this regulation, shall be guided in every respect by the regulations which have been, or may be enacted, for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively; and shall be considered responsible for the due performance of the duties entrusted to them; and shall be amenable to the civil courts of judicature for any acts done by them in their official capacity, in opposition to the regulations, in the same manner, and under the same rules, as the collectors of revenue."

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- Fourth. Darogahs shall not swear witnesses, except in cases sanctioned by regulation, *ibid.*
- Fifth. Darogahs to endeavour to dispatch all evidence, and to secure the attendance of witnesses in due time, so as to prevent delay in the enquiry, *ibid.*
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Ninth. Rule for the disposal of unclaimed suspicious property, *ibid.*

Tenth. All particulars regarding property, so found, shall be carefully transmitted to the magistrate, *ibid.*

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Twelfth. Unclaimed or suspected property only shall be removed, not to be restored without magistrate's order, *ibid.*

Thirteenth. In heinous cases a list of property plundered to be affixed in a conspicuous place, and due notice given, *ibid.*

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Second. Credible information being given of such characters, darogahs are to make private enquiries ; if they see fit they shall apprehend the person, and, as he accounts for himself, shall discharge or transmit him to magistrate, 490.

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Fifth. This report, if favorable, shall be transmitted to magistrate ; if not, witnesses shall be immediately bound over to appear, *ibid.*

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ERRATUM.

The following *Erratum*, supplying an omission in the second clause of Section 7, Regulation 2, 1821, has been received from India since that Regulation was printed in the Appendix, pages 572 to 576 :

“ After the word ‘ Registers’ in the fourth line of Clause Second, Section 7, Regulation 2, 1821, add the words ‘ or *Sudder Ameens*,’ which have been accidentally omitted in the printed copies of the Regulation.”

NOTE.

In the orthography of Asiatic words, which occur in this Analysis, no correct system has been attempted. The mode of spelling such words, which is adopted in the Regulations, and orders of Government, has been generally followed. Where any accentual marks have been used, á, é, í or ee, ó, ú or oo, have been intended to represent the long vowels; a or u, e, i, o, õ, the short vowels; aí or ý, and aú, or oú, the diphthongs composed of the first and third, and first and fifth, vowels; and â, the peculiar Arabic letter âyn, which Sir William Jones proposes to note uniformly by a circumflex. The want of prepared types, however, has frequently prevented the adoption of this notation; especially where it was chiefly desired, for accuracy, in citing the authorities of Mohummudan law.

THE END.

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