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ACT No. I OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

An Act to amend the Indian Articles of War.

V of 1869.

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

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

Short title and commencement.

(2) It shall come into force at once.

V of 1869.

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

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

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

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

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

[Price one anna.]

ACT No. II OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

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

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

(2) It shall come into force at once.

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

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

3. In section 6 of the same Act—

(i) in clause (e) the words "for compensation for a fraud or for harm illegally caused" shall be omitted; and Amendment of section 6, Act IV, 1882.

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

of

[Price one anna and three pice.]

Transfer of Property. [ACT II,

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

Substitution
of new Chap-
ter for Chap-
ter VIII,
Act IV,
1882.

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

“CHAPTER VIII.

“OF TRANSFERS OF ACTIONABLE CLAIMS.

Transfer of
actionable
claim.

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

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

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

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

Illustrations.

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

(ii) A

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

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

Notice to be in writing, signed.

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

Liability of transferee of actionable claim.

Illustrations.

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

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

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

Warranty of solvency of debtor.

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

Mortgaged debt.

"135. Every

Transfer of Property. [ACT II, 1900.]

Assignment
of rights
under marine
or fire policy
of insurance.

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

Incapacity of
officers con-
nected with
Courts of
Justice.

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

Saving of
negotiable
Instruments,
etc.

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

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

Repeal.

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

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

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Saving of Regulations in force in Hill District of Arakan.

CHAPTER II.

THE CHIEF COURT.

4. Establishment of Chief Court.
5. Constitution of Chief Court.
6. Appointment of Chief Judge.
7. Rank and precedence of Chief Judge and Judges of Chief Court.
8. Civil and criminal jurisdiction of Chief Court.
9. Exercise of jurisdiction by Judges of Chief Court.
10. Constitution of full bench and other benches.
11. Power to refer question to full bench.
12. Review in certain criminal cases.
13. Magistrate in Rangoon to commit to Chief Court.
14. Appeal from Judge of Chief Court exercising original civil jurisdiction.
15. Rule of decision where Judges differ.
16. Procedure in exercise of civil jurisdiction.
17. Ministerial officers of Chief Court.
18. Superintendence and control of subordinate Courts.
19. Power to Chief Court to make rules.
20. Registers, books, accounts, returns, statements and reports.

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Grades of Courts.

21. Grades of Civil Courts.
22. Superintendence and control.

Territorial

[Price seven annas and six pies.]

Lower Burma Courts.

[ACT VI

Territorial Divisions and Establishment of Courts.

SECTIONS.

- 23. Civil divisions, districts, subdivisions and townships.
- 24. Establishment of Courts.

Jurisdiction of Courts.

- 25. Original jurisdiction of Divisional, District, Sub-divisional and Township Courts.
- 26. Power to invest certain Courts with Small Cause Court powers.
- 27. Enhancement of powers of Judge of Court of Small Causes of Rangoon.
- 28. Appellate jurisdiction of the Courts.
- 29. Period of limitation for appeals to the Divisional Court.
- 30. Second appeals to the Chief Court.

Administrative Control.

- 31. Power of Courts to transfer cases.
- 32. Delegation of powers of District Court with respect to administrative control.
- 33. Judges not to try cases in which they are personally interested.

Appointment of Judges and Ministerial Officers of Subordinate Courts.

- 34. Appointment of Judges.
- 35. Appointment of ministerial officers.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

- 36. Place of sitting.
- 37. Seal.
- 38. Vacations.
- 39. Language of Courts.
- 40. Advocates of abolished Courts.
- 41. Power to Local Government to make rules as to process-serving establishment.
- 42. Continuance of jurisdiction of abolished Courts.

CHAPTER V.

PROVISION FOR PENDING AND PAST PROCEEDINGS.

- 43. Pending proceedings.
- 44. Appeals after commencement of Act against decrees and orders passed before.
- 45. Execution of past decrees and orders.

CHAPTER VI.

1900.]

Lower Burma Courts.

CHAPTER VI.

GENERAL.

SECTIONS.

- 46. Rules to have effect as if enacted by Act.
- 47. Amendment of certain enactments.
- 48. Repeals.

THE FIRST SCHEDULE.

ENACTMENTS AMENDED.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

ACT No. VI OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 22nd March,
1900.)

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

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

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

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

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

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

Short title,
extent and
commence-
ment.

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

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

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

Definitions.

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

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

(c) "Lower

Lower Burma Courts. [ACT VI

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

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

IX of 1887.

Saving of Regulations in force in Hill District of Arakan.

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

CHAPTER II.

THE CHIEF COURT.

Establishment of Chief Court.

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

Constitution of Chief Court.

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

1900.]

Lower Burma Courts.

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

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

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

Appointment
of Chief
Judge.

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

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

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

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

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

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

Civil and
criminal
jurisdiction
of Chief
Court.

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

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

Lower Burma Courts. [ACT VI

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

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

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

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

11 & 12 Vict.,
c. 21.

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

11 & 12 Vict.,
c. 21.

(3) Nothing in Chapter XX of the Code of Civil Procedure shall apply to any Court having jurisdiction within the Rangoon Town. XIV of 1852.

Exercise of
jurisdiction
by Judges
of Chief
Court.

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

(2) The

1900.]

Lower Burma Courts.

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

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

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

Constitution of full bench and other benches.

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

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

Power to refer question to full bench.

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

Review in certain criminal cases.

Lower Burma Courts.

[ACT VI

(Chapter II.—The Chief Court.—Sections 13-15.)

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

Magistrate
in Rangoon
to commit
to Chief
Court.

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

V of 1898.

Appeal from
Judge of
Chief Court
exercising
original civil
jurisdiction.

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

(a) in the exercise of its original jurisdiction as the principal Civil Court of original jurisdiction for the Rangoon Town, or

(b) in the exercise of its original jurisdiction with respect to insolvent debtors and their creditors, or

(c) in the exercise of its original jurisdiction in cases withdrawn from other Courts under section 25 of the Code of Civil Procedure, or

XIV of 1881

(d) in the exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section,

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

Rule of deci-
sion where
Judges
differ.

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

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

(b) if

1900.]

Lower Burma Courts.

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

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

(i) if the bench is a full bench, the decision shall be in accordance with the opinion of the Senior Judge of the bench ;

(ii) in other cases, the bench before which the difference has arisen shall refer it to a full bench, and shall dispose of the case in accordance with the decision of the full bench.

XIV of 1882. 16. (1) The Chief Court, when sitting as a Court of Civil Judicature, shall take evidence and record judgments and orders in the manner required by the Code of Civil Procedure, unless it has, with the previous sanction of the Governor General in Council, made rules for regulating these matters.

Procedure in exercise of civil jurisdiction

XIV of 1882. (2) If the Chief Court has so made rules for regulating these matters, the Governor General in Council may declare that any of the provisions of the Code of Civil Procedure with respect thereto shall not apply to the Chief Court.

XIV of 1882. (3) So much of section 579 of the Code of Civil Procedure as requires the decree to contain the memorandum of appeal, and to be signed and dated by the Judge or Judges who passed it, shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

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

Ministerial officers of Chief Court.

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

(3) The

Lower Burma Courts.

[ACT VI

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

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

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

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

Superintendence and control of subordinate Court.

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

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

Power to Chief Court to make rules.

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

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

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

whose

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

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

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

(2) ; Whoever

Lower Burma Courts.

[ACT VI

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

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

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

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

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Grades of Courts.

Grades of Civil Courts.

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

IX of 1887.

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

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

Superintendence and control.

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

1900.] *Lower Burma Courts.*

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

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

Territorial Divisions and Establishment of Courts.

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

Civil divisions, districts, subdivisions and townships.

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

24. The Local Government shall establish—

Establishment of Courts.

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

Jurisdiction of Courts.

V of 1882.
of 1887.

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

Original jurisdiction of Divisional District, Subdivisional and Township Courts.

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

Lower Burma Courts.

[ACT VI

(Chapter III.—*The Subordinate Civil Courts.—*
Sections 26-27.)

proceeding of a value not exceeding five hundred rupees :

- (b) the Subdivisional Court shall have jurisdiction to hear and determine any suit or original proceeding of a value not exceeding three thousand rupees :
- (c) the District Court shall have jurisdiction to hear and determine any suit or original proceeding without restriction as regards the value, except proceedings under the Indian Divorce Act, 1869, and shall be deemed to be the Court of a District Judge as defined by clause (15) of section 3 of the General Clauses Act, 1897 : IV of 1869
- (d) the Divisional Court shall have such jurisdiction to hear and determine any suit or original proceeding as is by this section conferred upon a District Court, and shall also have jurisdiction to hear and determine any original proceeding under the Indian Divorce Act, 1869, and shall be deemed the District Court under that Act for all districts comprised in the civil division. X of 1897

Power to invest certain Courts with Small Cause Court powers.

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

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

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

1900.] *Lower Burma Courts.*
(Chapter III.—*The Subordinate Civil Courts.*—
Section 28.)

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

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

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

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

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

Appellate
jurisdiction
of the Courts.

XIV of 1882.
IX of 1887.

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

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

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

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

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

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

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

(2) Where an order specified in section 588, clause (29), of the Code of Civil Procedure, is made by a District Court in exercise of the jurisdiction of a Court of Small Causes, an appeal therefrom shall lie to the Chief Court. XIV of 1882.

Period of limitation for appeals to the Divisional Court.

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

XV of 1877.

Second appeals to the Chief Court.

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

XIV of 1882

Provided that no such second appeal shall lie—

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

(b) in

1900.] *Lower Burma Courts.*

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

(b) in the case of an unclassified suit, unless the value of the suit exceeds five hundred rupees or the suit is of the nature described in sub-section (1) of section 13 of the Burma Laws Act, 1898.

XIII of 1908.

(2) The period of limitation for an appeal to the Chief Court under this section shall be ninety days, and, in the computation of that period and in all other respects, the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.

XV of 1877.

Administrative Control.

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

XIV of 1882.

Power of Courts to transfer cases.

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

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

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

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

XIV of 1882.

VII of 1870.

under

Lower Burma Courts. [ACT VI
(Chapter III.—The Subordinate Civil Courts.—
Sections 32-34.)

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

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

32. The District Court may, with the previous sanction of the Local Government, delegate to any Subdivisional Court in the civil district the powers conferred on the District Court by section 31 of this Act and by section 25 of the Code of Civil Procedure, XIV of 1882, to be exercised by the Subdivisional Court in any specified portion of the district within the area of the jurisdiction of the District Court.

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

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

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

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

Appointment of Judges and Ministerial Officers of Subordinate Courts.

Appointment of Judges.

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

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

1900.]

Lower Burma Courts.

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

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

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

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

Appointment
of ministerial
officers.

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

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

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

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

Place of sit-
ting.

37. Every

Lower Burma Courts. [ACT VI

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

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

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

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

Language of Courts.

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

Advocates of abolished Courts.

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

XVIII of 1879.

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

XVIII of 1879.

Power to Local Government to

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

1900.] *Lower Burma Courts.*

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

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

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

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

CHAPTER V.

PROVISION FOR PENDING AND PAST PROCEEDINGS.

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

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

Lower Burma Courts. [ACT VI

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

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

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

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

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

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

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

(a) when the appeal would before that date have lain to the High Court of Judicature at Fort William in Bengal, or to the Special Court, the Court of the Recorder of Rangoon or the Court of the Judicial Commissioner of Lower Burma—to the Chief Court ;

(b) when the appeal would before the commencement of this Act have lain to the Court of the Commissioner—to the Divisional Court ;

(c) when the appeal would before the commencement of this Act have lain to the Court of the Deputy Commissioner or to the Court of an Assistant Commissioner or of an Extra Assistant Commissioner empowered

to

1900.] *Lower Burma Courts.*

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

of 1889.

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

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

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

Execution of past decrees and orders.

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

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

Lower Burma Courts. [ACT VI
(*Chapter VI.—General.—Sections 46-48.*)

CHAPTER VI.

GENERAL.

Rules to have
effect as if
enacted by
Act.

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

Amendment
of certain
enactments.

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

Repeals.

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

1900.]

*Lower Burma Courts.**(The First Schedule.—Enactments amended.)*

THE FIRST SCHEDULE.

ENACTMENTS AMENDED.

(See section 47.)

Year.	No.	Short title,	Amendment.
<i>Part I.—Acts of the Governor General in Council.</i>			
1866	XXVII	The Indian Trustees Act, 1866.	<i>In the definition of High Court in section 2, after the word Punjab insert the words and the Chief Court of Lower Burma.</i>
"	XXVIII	The Trustees and Mortgagees Powers Act, 1866.	<i>In the definition of High Court in section 1, after the word Punjab add the words and the Chief Court of Lower Burma.</i>
1869	IV	The Indian Divorce Act, 1869.	(1) <i>In section 3, clause (I), for the words the Special Court constituted under the Lower Burma Courts Act, 1889, substitute the words the Chief Court of Lower Burma.</i> (2) <i>In section 3, clause (2), for the words the areas for the time being within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon and of the civil jurisdiction of the Court of the Judge of the Town of Moulmein, substitute the word Burma.</i> (3) <i>In the same clause, for the words the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Moulmein respectively, substitute the words Burma—a Judge of a Divisional Court.</i>
1870	VII	The Court-fees Act, 1370.	<i>For the words and figures in the first column of No. 14 of the first schedule substitute the following :—</i> 14. <i>Application to the Chief Court of Lower Burma for the exercise of its revisional jurisdiction under section 622 of the Code of Civil Procedure or section 25 of the Provincial Small Cause Courts Act, 1887.</i>
1877	II	The Probate and Administration Act, 1877.	<i>For clause (c) of section 1 substitute the following :—</i> (c) <i>the Chief Court of Lower Burma, and previous to its establishment the Court of the Recorder of Rangoon.</i>

Lower Burma Courts. [ACT VI
(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—continued.

Year.	No.	Short title.	Amendment.
<i>Part I.—Acts of the Governor General in Council—continued.</i>			
1877	XV	The Indian Limitation Act, 1877.	In Nos. 151 and 162 of the second schedule, after the word Punjab insert the words and the Chief Court of Lower Burma.
1879	II 1	The Destruction of Records Act, 1879.	In section 3, after the word Bombay insert the words and the Chief Court of Lower Burma.
"	XVIII	The Legal Practitioners Act, 1879.	In section 41, sub-section (d), after the word Punjab insert the words and the Chief Court of Lower Burma.
1880	V	The Burma Boundaries Act, 1880.	In section 19, for the words following the words an appeal shall lie down to the end of the section substitute the following :— —in Lower Burma to the Chief Court of Lower Burma. —in Upper Burma to the Judicial Commissioner of Upper Burma. In section 21, for the words and the Recorder of Rangoon substitute the words of Upper Burma and the Chief Court of Lower Burma.
1881	V	The Probate and Administration Act, 1881.	In section 59, for the words Court of the Recorder of Rangoon substitute the words Chief Court of Lower Burma.
1882	XIV	The Code of Civil Procedure.	In section 4, for the figures 1889 following the words the Lower Burma Courts Act, substitute the figures 1900. For clause (d) of section 6 substitute the following :— (d) of the Chief Court of Lower Burma sitting as an Insolvent Court under the Statute 11 and 12 Victoria, Chapter 21 ; In the third paragraph of section 39, after the word Punjab insert the words or of the Chief Court of Lower Burma.

1900.]

Lower Burma Courts.

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—continued.

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

Lower Burma Courts.

[ACT VI

(The First Schedule.—Enactments amended.)

THE FIRST SCHEDULE—concluded.

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

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

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

1898	III	The Burma Municipal Act, 1898.	<p>In section 63, sub-section (5), for the words <i>Judicial Commissioner substitute the words Chief Court of Lower Burma, if the case has arisen in Lower Burma; or to the Judicial Commissioner of Upper Burma, if the case has arisen in Upper Burma.</i></p> <p>In section 63, sub-section (6), before the words the <i>Judicial Commissioner, wherever they occur, insert the words the Chief Court or.</i></p> <p>In section 64, sub-sections (5) and (6), for the word <i>Recorder, wherever it occurs, substitute the words Chief Court of Lower Burma.</i></p>
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1900.]

*Lower Burma Courts.**(The Second Schedule.—Enactments repealed.)*

THE SECOND SCHEDULE

ENACTMENTS REPEALED.

(See section 48.)

Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1864	XVII	The Official Trustees Act, 1864.	Sub-section (3) of section 34.
1865	X	The Indian Succession Act, 1865.	In the definition of " High Court " in section 3, <i>the words</i> and for the purposes of sections 242, 242A, 246A and 277A, shall include the Court of the Recorder of Rangoon.
1873	X	The Indian Oaths Act, 1873.	The explanation to section 7.
1874	II	The Administrator General's Act, 1874.	Sub-section (3) of section 68.
1879	III	The Destruction of Records Act, 1879.	The second paragraph of section 2.
1882	VII	The Powers of Attorney Act, 1882.	Section 4, clause (f).
	XIV	The Code of Civil Procedure.	In the penultimate paragraph of section 237 <i>the words</i> As regards his own Court and the Court of Small Causes at Rangoon, the Recorder of Rangoon shall be deemed to be a " High Court " within the meaning of this paragraph. In section 386, <i>the words</i> or the Court of the Recorder of Rangoon. Section 614.
1883	V	The Indian Merchant Shipping Act, 1883.	Section 15, sub-section (2).
1884	VI	The Inland Steam-vessels Act, 1884.	Section 39, sub-section (2).
1889	XI	The Lower Burma Courts Act, 1889.	So much as has not been repealed.
1890	VIII	The Guardians and Wards Act, 1890.	So much of the schedule as relates to Act XI of 1889.

Lower Burma Courts. [ACT VI, 1900.]
(*The Second Schedule.—Enactments repealed.*)

THE SECOND SCHEDULE—concluded.

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

ACT No. VII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

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

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

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

4 & 45 Vict.,
58.

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

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

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

Repeals.

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

[Price one anna.]

ACT No. VIII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

XX of 1882.

II of 1898.

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

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

Short title and commencement.

(2) It shall come into force at once.

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

XX of 1882.

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

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

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

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

XXIII of 1870.

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

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

of

[Price one anna six pies.]

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

Transmission of silver bullion by Secretary of State.

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

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

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

XXIII of 1870.

Purchase of silver by Government of India.

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

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

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

XXIII of 1870.

Gold held as reserve by Secretary

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

1900.] *Indian Paper Currency.*

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

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

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

Account.

II of 1898.
VIII of 1898

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

Repeal. ✓

ACT No. IX OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

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

XVI of 1887.

VII of 1870.
XVIII of
1884.
XXV of
1899.

XVI of 1887.

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

Amendment
of No. 13,
First Sched-
ule, Act VII,
1870.

[Price one anna.]

ACT No. X OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

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

1. (1) This Act may be called the Indian Census Act, 1900. Title, extent and commencement.

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

(3) It shall come into force at once.

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

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

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

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

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

4. (1) (a) Every

[Price two annas and six pies.]

Discharge of duties of census-officers in certain cases.

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

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

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

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

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

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

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

XLV of 1860.

Power of District Magistrate to call upon

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

have

1900.]

Census.

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

certain persons to give assistance.

VII of 1875.

VI of 1889.

(a) all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889, or their agents,

Mad. II of 1894.

(b) all village-officers and servants in estates as defined in the Madras Proprietary Estates' Village Service Act, 1894 (Madras), and

Ben. VI of 1870.

(c) all members of panchayats appointed under the Village Chaukidari Act, 1870 (Bengal), or the Sylhet and Cachar Rural Police Regulation, 1883, all ghatwals and all circle-tahsildars appointed under the Chota Nagpur Rural Police Act, 1887 (Bengal), and all village-headmen in the Kumaun Division of the North-Western Provinces,

I of 1883.

Ben. V of 1887.

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

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

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

Asking of questions by census-officers.

7. Every

Obligation to answer questions.

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

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

Occupier to allow access, and permit affixing of numbers.

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

Occupier to fill up schedule.

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

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

Penalties.

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

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

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

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

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

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

Jurisdiction
in prosecu-
tions.

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

(3) No

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

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

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

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

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

Power in regard to expenses.

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

Power to make rules.

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

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

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

towards

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

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

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

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

ACT No. XI OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

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

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

Short title and commencement.

(2) It shall come into force at once.

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

Addition to second schedule, Act XV, 1877.

146A. By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Thirty years .	The date of dispossession or discontinuance.
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[Price one anna.]

ACT No. XII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

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

XVIII of
1891.

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

Short title
and com-
mencement.

(2) It shall come into force at once.

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

Amended
definition of
"company".

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

[Price one anna.]

ACT No. XIII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

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

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

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

Preliminary.

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

Short title, extent and commencement.

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

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

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

Definitions.

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

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

that

*Alienation of Land (Punjab). [ACT XIII
(Preliminary.—Section 2.)*

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

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

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

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

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

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

(5) the

1900.] *Alienation of Land (Punjab).*

(Permanent Alienation of Land.—Section 3.)

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

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

Permanent Alienation of Land.

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

Sanction of Deputy Commissioner required to certain permanent alienation.

(a) the alienor is not a member of an agricultural tribe ; or

(b) the alienor is a member of an agricultural tribe and the alienee holds land as an agriculturist in the village where the land alienated is situated ; or

(c) the alienor is a member of an agricultural tribe and the alienee is a member of the same tribe or of a tribe in the same group :

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

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

Provided

*Alienation of Land (Punjab). [ACT XIII
(Permanent Alienation of Land.—Sections 4-5. Temporary Alienations of Land.—Section 6.)*

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

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

Agricultural tribes.

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

Saving for rights in land alienated.

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

Temporary Alienations of Land.

Forms of mortgage permitted in certain cases.

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

(a) in the form of a usufructuary mortgage, by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor; or

(b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor

1900.] *Alienation of Land (Punjab):*

(Temporary Alienations of Land.—Section 6.)

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

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

VI of 1887.

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

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

(a)

*Alienation of Land (Punjab). [ACT XIII
(Temporary Alienations of Land.—Sections 7-8.)*

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

Rules applying to permitted mortgages.

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

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

Conditions in permitted mortgages.

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

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

(2) In

1900.] *Alienation of Land (Punjab).*

(Temporary Alienations of Land.—Sections 9-10.)

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

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

Power to revise mortgage made in form not permitted.

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

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

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

Future mortgage by way of conditional sale not permitted.

11. Any

*Alienation of Land (Punjab). [ACT XIII
(Temporary Alienations of Land.—Sections 11-13.—
General Provisions.—Section 14.)*

Leases and farms.

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

Restriction on power to make further temporary alienation.

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

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

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

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

General Provisions.

Effect of permanent alienation made without sanction.

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

15. Every

1900.] *Alienation of Land (Punjab).*

(*General Provisions.—Sections 15-17.*)

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

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

Explanation.—The produce of land means—

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

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

Execution-sale of land forbidden.

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

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

Registration

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

18. (1) Where

*Alienation of Land (Punjab). [ACT XIII
(General Provisions.—Sections 18-22.)*

Record-of
rights and
annual re-
cord.

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

XVII of
1887.

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

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

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

XVII of
1887.

Appearance
of legal prac-
titioners
forbidden.

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

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

Jurisdiction
of Civil
Courts ex-
cluded.

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

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

Addition to
section 77,
Act XVI,
1887.

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

XVII of 1887.

“and suits relating to the rent to be paid under

a

1900.] *Alienation of Land (Punjab).*

(*General Provisions.—Sections 23-25.*)

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

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

Exercise of powers of Deputy Commissioner.

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

Exemption.

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

Power to make rules.

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