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I N D E X
 TO THE
ACTS OF THE SUPREME GOVERNMENT
 FOR 1841.

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„ Two-thirds in number and value of the rate payers of any Division may undertake Assessment, Collection and Management of			

the

	<i>Act.</i>	<i>Section.</i>	<i>Clause.</i>
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	<i>Act.</i>	<i>Section.</i>	<i>Clause.</i>
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	<i>Act.</i>	<i>Section.</i>	<i>Clause.</i>
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„ Proof of Ownership of Vessels or otherwise, how to be obtained without entailing the necessity of personal attendance of the Registering Officers in Courts or the production of original papers,	„	XXII.	
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	<i>Act.</i>	<i>Section.</i>	<i>Clause.</i>
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„ Magistrates of Districts where persons shall be charged with—shall give immediate notice to the Government of the Presidency, and act according to their order for the apprehension and trial of parties,...	„	VI.	
„ Act not to affect jurisdiction of the Supreme Courts,	„	VII.	
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„ XI. Geo. IV. and I. William IV. C. 46 relating to Illusory appointments and Stat. XI. Geo. IV. and I. William IV. Chap. 65 for consolidating and amending the Law relating to property of Infants, feme covert, Idiots, Lunatics and persons of unsound mind, extended to the E. I. Company's Territories,	„	II.	
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	<i>Act.</i>	<i>Section.</i>	<i>Clause.</i>
and for enabling Courts of Equity to give effect to their orders in certain cases, extended to the Company's Territories, and provisions relating to the Lord Chancellor of Great Britain or to Courts of Chancery, or their Decrees, made applicable to Supreme Courts. The Indemnity and discharge mentioned in the last Section of the same Act shall be applicable to the E. I. Company and Corporate Societies, their Officers and Servants,	XXIV.	III.	
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„ Terms for the continuance of the Curators in possession of property defined. The Judge to have discretionary power to allow			

	<i>Act.</i>	<i>Section.</i>	<i>Clause.</i>
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Successions, the Judge shall take security from Curators and for what purposes. How they are to be remunerated. Monies realized by them how to be disposed of. Delay in taking security not to prevent Curators being immediately invested with power,	„	VII.	
„ In cases of lands paying Revenue to Government, the Judge to act according to the Collector's Report, with regard to the citation of the party in possession and the appointment of a Curator, except in urgent cases,	„	VIII.	
„ Curator to be subject to the order of the Judge in matters of litigation. Express authority requisite for their collection of debts or rents,	„	IX.	
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Suits and appeals neglected to proceed in for six weeks to be dismissed without previous notice or proceeding, or assigning any reason,—further time allowable on special application,	XXIX.	I.	
„ In cases of dismissal of—Defendants and Respondents to be entitled to costs, such dismissal however not to bar institution of a new suit or appeal,	„	II.	
„ Certain Regulations repealed—See Regulations. Appeals not to lie against decisions passed under this Act; other than a summary appeal on the fact of default,	„	III.	
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ACTS OF THE SUPREME GOVERNMENT.

	<i>Act.</i>	<i>Section.</i>	<i>Clause.</i>
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ACT No. I. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 12th of April, 1841.*

*An Act for facilitating the collection of the Revenue of Government and defining
the interest intended to be conveyed by public sales for the realization of
arrears of the Public Revenue in Putteedarree Estates.*

Preamble. I. **T**HE Regulations in force authorize the application of duress for enforcing the payment of arrears of the public revenue, only against the person and property of the Contracting Lumberdar, leaving him to proceed against the Putteedars by suit or distraint. But with reference to the peculiar nature of these Coparcenaries the existing enactments appear to be insufficient on the one hand for the protection of the rights of the Putteedars, and on the other hand for the punctual realization of the dues of Government. The Regulations are also deficient in not authorizing with sufficient distinctness the sale or transfer of the Puttees of defaulting Putteedars in Putteedarree Estates, and in not defining the interest intended to be conveyed by public sales of such Estates.

II. A Putteedarree Estate in this Act is held to be an Estate which consists of two or more separate portions or Puttees, or of which there may be proprietors

ACT No. I. OF 1841.

proprietors, possessed of separate properties and holding direct of the Government, but not parties in their own names to the contract with the Government for payment of the public revenue. The proprietor who is a party in his own name is called a Lumberdar, and the proprietor who is not a party in his own name is called a Putteedar.

III. It is hereby enacted, that the following modes of duress may be enforced against all Putteedars whose tenure and interest may have been defined by a Settlement formed according to Regulation VII. of 1822 as modified by Regulation IX. of 1833, whether every such Putteedar be in sole occupation of his Puttee, or hold it in common with others.

1st. Issue of Dustucks in the same manner, and under the same limitation, as authorized by the rules in force for Lumberdars.

2d. Arrest, detention, imprisonment, distraint and sale of personal property as now authorized to be enforced against Lumberdars.

3d. Transfer of the defaulting Puttee in perpetuity to the members of any other Puttee which may not be in arrear.

4th. Annulment of the Settlement as regards the defaulting Puttee, and lease thereof to the members of any other Puttee which may not be in arrear or to a stranger for any term not exceeding fifteen years.

5th. Sale of the defaulting Puttee by public auction in which case the members of the remaining Puttees who may not be in arrear are authorized to bid.

IV.

ACT No. I. OF 1841.

IV. And it is hereby enacted, that on occasion of the sale by public auction of any Puttee, if the lot shall have been knocked down to a stranger, any Putteedar or other member of the coparcenary not being himself in arrear may claim to take the said Puttee at the sum last bid, provided that the said demand of pre-emption be made on the day of sale and before the Collector shall have left the office, and provided that the claimant fulfil all the other conditions of the sale.

V. And it is hereby enacted, that the above methods be employed by the Collector or other Officer vested with the powers of Collector, under such limitation and control as Government or other superior revenue authorities shall see fit to prescribe or enforce.

VI. And it is hereby enacted, that the sale of any Puttee by public auction, shall be effected in respect to the notice to be issued, the authority to be obtained, and the mode of conducting the sale according to the rules prescribed by Law from time to time for the sale of an entire Mehal, and the Puttee after the sale shall have been duly confirmed shall be the absolute property of the purchaser, save and except the rights of those Ryots whose right to the permanent occupancy of their lands may have been recognized, and the rates of rent payable by whom may have been adjusted and recorded at the last settlement.

VII. And it is hereby enacted, that in case of the lease or other temporary transfer of any Puttee as above said no member of that Puttee shall be entitled to cultivate any land therein during the term of such transfer, or in case of absolute sale no member of the Puttee shall be entitled to hold or cultivate any land therein from and after the month of Bysack next succeeding such sale unless the said member of such sold or transferred Puttee shall first execute a
written

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written engagement to payment to the purchaser or transferree at the rate demanded by the purchaser or transferree. Provided that it shall be competent to the Collector, subject to the orders of the Commissioner and the Sudder Board of Revenue, if the rate cannot be fixed by private bargain between the parties to cause the same to be fixed by a jury of the vicinage in the mode directed by Sections V. to X. Regulation IX. of 1833.

VIII. And it is hereby enacted, that a copy of the Jumma Wasil Bakee and detailed Kuteonee of the Tehsildar signed and sealed by him, and countersigned by the Canoongoes and Putwarry, exhibiting in detail the amount paid by and arrear due from each Puttee shall be taken to be sufficient evidence of the arrear due from that Puttee, and these papers shall invariably be filed with the Collector's proceedings.

IX. And be it enacted, that the Collector be empowered to give possession to all purchasers and transferrees under this Act in the mode authorized by Clause III. Section XXIII. of Regulation VII. of 1822.

X. And it is hereby enacted, that nothing contained in this Act shall bar the indefeasible right of Government to hold the entire body of proprietors and the entire estate responsible for the amount of the whole Jumma, and to enforce the existing regulations for the transfer or sale of the whole estate whenever it shall appear to them just and expedient. In every such case it is hereby declared in modification of Regulation XI. of 1822, that the entire proprietary rights of every member of the coparcenary shall be annulled and forfeited, and the provision of Section V. of this Act shall be applicable to every member of the Coparcenary.

XI.

ACT No. I. OF 1841.

XI. And it is hereby enacted, that the Governor General in Council may extend the provisions of this Act to any district to which with reference to the nature of the tenures prevalent therein its extension may be expedient, although no Settlement of such district may have been made under Regulations VII. of 1822, and IX. of 1833, and the Order of Government, shall be sufficient authority for such extension.

ACT No. II. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 10th of May, 1841.*

*An Act for regulating the sale of Ganja and Bhang within the Presidency
of Bombay.*

I. **I**T is hereby enacted, that any person who shall sell by retail Ganja, or Bhang, within the Territories subject to the Presidency of Bombay, without having obtained a licence from the Collector of Land Revenue, in the manner hereinafter provided, shall be punishable by fine not exceeding 30 Rupees, or by imprisonment for one month.

II. And it is hereby enacted, that the Collector of Land Revenue in each Zilla shall grant to all persons applying for them, licences in the Form of Appendix A, to be in force for one year, and shall charge for the same a fee of such amount as the Governor of Bombay in Council shall from time to time determine.

APPENDIX A.

ACT No. II. OF 1841.

APPENDIX A.

Form of Licence to retail Bhang or Ganja.

I, A B, Collector of _____ hereby licence C D, by caste
_____, inhabitant of _____, to sell by retail Ganja and
Bhang within the village (Town or District) of _____ for one year
from the date hereof.

(Signed) A B, Collector.

Collector's Office, }
_____ day of _____ }

ACT No. III. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 10th of May, 1841.*

*An Act for the trial of Prisoners charged with the commission of certain offences
within the Islands of Bombay, and Colaba and the Harbour of Bombay.*

I. **W**HEREAS it is expedient to extend the jurisdiction conferred upon the Court of Petty Sessions in Bombay by Rule, Ordinance and Regulation II of 1827, Article I. Title IV. and to give the power of summary conviction to single Magistrates of Police in certain cases; It is hereby enacted, that all persons charged with the commission of Simple Larceny, or with receiving goods or property knowing the same to have been stolen within the Islands of Bombay, and Colaba and the Harbour of Bombay, may be tried summarily by the Court of Petty Sessions in Bombay, provided the value of the property the prisoner is charged with having stolen or received as aforesaid, does not, according to the belief of the said Court, exceed Twenty Rupees.

II. And it is hereby enacted, that the said Court of Petty Sessions shall not have power to sentence any such person to be imprisoned with or without hard labour for a longer period than twelve calendar months, or to be transported.

III.

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III. And it is hereby enacted, that it shall be lawful for the Court of Petty Sessions when any person is charged before them with either of the offences aforesaid, at its discretion, instead of trying such person, to commit for trial before Her Majesty's Supreme Court of Justice in Bombay.

IV. And it is hereby enacted, that it shall be lawful for a single Magistrate of Police in Bombay to exercise the power of summary conviction in all cases described in the following Rules, Ordinances, and Regulations ;— provided that in cases of Simple Larceny the value of the property the prisoner is charged with having stolen does not, according to the belief of the said Magistrate, exceed Ten Rupees.

Rule, Ordinance and Regulation I of 1814.

Articles I, II and III of Title IV of Rule, Ordinance and Regulation II of 1827.

Title VI of the same.

Title VIII of the same.

Title IX of the same.

Title X of the same.

Articles III and IV of Title XI of the same.

Such Police Magistrate to have full power of summoning to appear before him all persons whose presence is necessary to promote the purposes of
Justice,

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Justice, and to have the same power of apprehending and punishing any person so summoned under the same circumstances as the Court of Petty Sessions is empowered under Act XVIII, Rule, Ordinance and Regulation III of 1815.

V. And it is hereby enacted, that the said Magistrate of Police shall not have power to sentence any person to be imprisoned with or without hard labour for a longer period than three calendar months.

VI. And it is hereby enacted, that it shall be lawful for the Magistrate of Police when any person is charged before him under this Act in his discretion either to try such person or to commit him for trial before the Court of Petty Sessions or Her Majesty's said Supreme Court of Justice.

VII. And it is hereby enacted, that the Magistrate of Police after trying any offender charged before him by virtue of this Act, shall cause his judgment to be drawn up in the following form of words, or in such other form of words to the same effect as the case shall require, that is to say,

Be it remembered that on the day of
in the year of our Lord before me
Magistrate of Police in and for the said Town and Presidency, E. F. was duly
convicted (here specify the alleged offence and the time and place when and
where the same was committed as the case may be) and I the said Magistrate
of Police believe the value of the property stolen to amount to a sum not
exceeding Ten Rupees, that is to say, Rupees and I adjudge
the said E. F. (here state the punishment the prisoner is to suffer as the case
may be.) Given under my hand the day and year first above named.

(Signed) _____

VIII.

ACT No. III. OF 1841.

VIII. And it is hereby enacted, that upon any conviction for Simple Larceny or for receiving stolen goods, the authority before which such conviction shall have taken place shall have power to order the restitution of the property stolen, if forthcoming to the owner or his representative, and in case of its not being restored pursuant to such order to impose on any person refusing or neglecting to restore the same a fine not exceeding Twenty Rupees, and in default of payment, to adjudge the person guilty of such neglect or refusal to be imprisoned for the space of one calendar month, unless the property be sooner restored.

IX. And it is hereby enacted, that Article I, Title XIV, and Article III, Title XV of Rule, Ordinance and Regulation II of 1827 are hereby repealed. And it is enacted, that whenever any offender is convicted of any second or repeated offence, it shall be lawful for the Court of Petty Sessions to award a double punishment. Provided always, that in no case shall corporal punishment extend beyond 24 lashes, or imprisonment beyond twelve months.

X. And it is hereby enacted, that all fines and penalties hereafter to be awarded by the Court of Petty Sessions or the Police Magistrates in Bombay, or either of them, under this Act or otherwise, shall be levied in the manner provided in Act II of 1839.

XI. And it is hereby declared, that nothing in this Act contained shall be construed to affect the remedy of any person aggrieved by the conviction of the said Court of Petty Sessions or a Magistrate of Police through the means of the Writ of Certiorari.

ACT No. IV. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 17th of May, 1841.*

*An Act for regulating public conveyances in the Islands of Bombay, and Colaba
and the Harbour of Bombay.*

1. **I**T is hereby enacted, that all Hackney Carriages, Carts, Palankeens and other vehicles let to hire for the purpose of conveying persons or goods within the Islands of Bombay and Colaba, and all boats let to hire for such purpose within the Harbour of Bombay shall bear upon them, in manner as directed by the Superintendent of Police, on each side, in large English and Native figures or characters, a certain number to be indicated for every such public conveyance in manner hereinafter mentioned ; and every person who shall let out to hire any such public conveyance after the expiration of two months from the day of passing this Act which shall not bear such number in manner aforesaid, or which shall bear any number not indicated as aforesaid, or after notice as hereinafter mentioned to withdraw the same, shall be liable on conviction before a Magistrate of Police, to a fine not exceeding Thirty Rupees.

II. And it is hereby enacted, that the numbers to be used for public conveyances shall be indicated by the Superintendent of Police on application
of

ACT No. IV. OF 1841.

of the owners of such conveyances, and it shall be lawful for the Court of Petty Sessions on proof of the breach of any provision of this Act by the owner of any such conveyance as aforesaid, to give such owner notice to withdraw the number which may theretofore have been indicated to him in manner aforesaid.

III. And it is hereby enacted, that every Teekabearer, Boatman, or other person employed in the conveyance of persons or goods as aforesaid by the owner of any such public conveyance shall wear, in manner as directed by the Superintendent of Police, a badge on the upper part of his right arm with the number of the public conveyance to which he belongs, which badge shall be indicated by the said Superintendent, in default whereof every person so employed and not having such badge as aforesaid, shall be liable on conviction before a Magistrate of Police, to a fine not exceeding Twenty Rupees.

IV. And it is hereby enacted, that it shall be lawful for the Court of Petty Sessions from time to time to settle the rates for the hire of such public conveyances as aforesaid, and the rates so settled, if sanctioned by the Governor of Bombay in Council, shall be published twice in the Government Gazette. And after such publication, if the owner or other person in charge of any such public conveyance as aforesaid shall receive or require any higher rate for the hire thereof, or shall refuse a fare upon tender of the prescribed rate, the person or persons on whose application the number of such public conveyance shall have been indicated as aforesaid, or the person receiving or requiring such higher rate or refusing such fare, shall be liable on conviction before a Magistrate of Police, to a fine not exceeding Twenty Rupees. Provided always that no person shall be deemed to be liable to the penalty in this Section unless the settled rate of hire shall have been duly tendered.

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tendered. And any person refusing to pay the money due from him for the hire of any such conveyance according to the rate settled as aforesaid, shall be liable on conviction before a Magistrate of Police, to a fine not exceeding Twenty Rupees, and no contract for hire under the settled rate shall be valid or binding on any owner of a public conveyance.

V. And it is hereby enacted, that the Superintendent of Police shall keep a Register containing a full description of applicants receiving numbers under this Act, and of every conveyance for which any number is obtained, and of every person for whom any badge is obtained, and every offender using or authorizing the use of any number or badge otherwise than for such particular conveyance or person, shall be liable on summary conviction, before the Court of Petty Sessions, to a fine not exceeding One Hundred Rupees.

VI. And it is hereby enacted, that it shall be lawful for the Court of Petty Sessions, from time to time, to appoint stands for public Carriages and Palkees. And every person in charge of any Carriage or Palkee found loitering off any such stand for the purpose of hire shall be liable on conviction before a Magistrate of Police, to a fine not exceeding Ten Rupees.

VII. And it is hereby provided, that nothing in this Act contained shall extend to prevent any person from letting to hire any conveyance for a month or longer period without any such number being applied for as aforesaid.

VIII. And it is hereby enacted, that all fines imposed by virtue of this Act shall be recoverable in manner provided for by Act II. of 1839.

ACT No. V. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 31st of May, 1841.*

*An Act for the greater uniformity of the process upon Trials for State Offences,
and the amendment of such process in certain cases.*

I. **W**HEREAS it is expedient that the rules of process for the trials of state offences should be modified, with a view to uniformity at the different Presidencies ; and whereas some of the rules heretofore in force at particular Presidencies require amendment ;—

It is hereby enacted, in modification of all regulations and parts of regulations affecting process upon trials for state offences, that it shall be competent for the ordinary tribunals to try charges of treason, rebellion or other crime against the state.

II. And it is hereby enacted, that it shall be competent for the Government of any Presidency to issue a commission for the trial of any offences of treason, rebellion or crime against the state by one or more Judges, together with such Law Officers as shall be required or without any such Officer, according as it may be deemed expedient.

III.

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III. And it is hereby enacted, that the Courts convened under such Commissions are to try the prisoners brought before them in the same manner as in trials before the Ordinary Courts ; and shall exercise all powers and authorities vested in such Courts, except that their sentence, whether of acquittal or punishment, shall in every instance be reported with their proceedings to the highest Court of the East India Company for Criminal matters of the Presidency, previous to carrying the same into execution ; and they are to be guided as to the place where they are to assemble, the persons to be tried by them, and all other particulars not provided by any Regulation of the respective presidencies, or by any Act of the Governor General of India in Council, by the special orders which they may receive from the executive Government, or from the highest Court of the East India Company for Criminal matters in the Presidency.

IV. And it is hereby enacted, that in case of the death, or of the absence from indisposition or other cause, of any of the Judges, or Law Officers of the Courts which may be appointed to try offenders under this Regulation, the remaining Judge or Judges, or Law Officer or Officers, shall be competent to form a Court, and proceed with the trial or trials, until provision can be made by the Government of the Presidency for supplying the place of such Judge or Judges, or Law Officer or Officers, if any such provision shall be deemed necessary ; or, if no such provision be made, the powers and proceedings of the said Courts shall not be affected by the death or absence of such Judge or Judges, or Law Officer or Officers.

V. And it is hereby enacted, that the highest Courts of the East India Company for Criminal matters of the respective Presidencies on the receipt of any trials referred to them under this Act, are to proceed thereupon according to the rules in force with respect to other trials referred to them ; except that they

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they are in every instance to report their sentences to the executive Government of the Presidency for the time being; and are to wait the orders of Government for the period of three calendar months before they direct their sentence to be carried into execution.

VI. And it is hereby enacted, that the Magistrates of the several Zillahs and Cities, where any person or persons shall be charged with the crimes mentioned in this Act, shall give immediate notice thereof to the Government of the Presidency to which their several Districts or Cities belong, and shall pay immediate and strict attention to all orders which may be transmitted to them by their respective Governments for the apprehension of persons charged as aforesaid, or for making any enquiry respecting such persons, or for committing them to take their trials before the Ordinary Courts, or before the Special Courts described in this Act.

VII. And it is hereby enacted, that this Act shall not be construed to alter or affect the jurisdiction of any of Her Majesty's Supreme Courts of Justice.

ACT No. VI. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 7th June, 1841.*

*An Act for prohibiting the importation of Rum and Rum Shrub into the
Presidency of Fort William in Bengal.*

I. **I**T is hereby enacted, that if any person after the passing of this Act, lands or attempts to land, or shall introduce by land in any part of the Territories subject to the Government of the Presidency of Fort William in Bengal, any Rum or Rum Shrub, which is the produce of any foreign Country, or of any British possession into which foreign Sugar or Rum can be legally imported, such Rum or Rum Shrub shall be seized by the Collector of the Customs, or by any other Officer authorized to seize and detain Contraband Goods, and shall be brought to confiscation according to the Rules in force for confiscating such Goods, unless the District in which such Rum or Rum Shrub is landed, or in which an attempt has been made to land such Rum or Rum Shrub, be a District in which the Governor General of India in Council has authorized the importation of such Rum or Rum Shrub, and it shall be lawful for the Governor General of India in Council to authorize the importation of such Rum and Rum Shrub into any District of the Territories aforesaid by an Order in the Official Gazette.

II.

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II. And it is hereby enacted, that if any owner of Rum or Rum Shrub, the produce of the said Territories, or the duly authorized Agent of such Owner, be desirous to obtain a Certificate of origin from the Collector or Assistant Collector of the Land or Customs Revenue of any District within the said Territories, or from any other Officer appointed by the Governor General of India in Council to give such Certificates, such Owner or Agent shall, in the presence of the Officer from whom he desires to obtain such Certificate, make and subscribe a Declaration in the Form contained in the Schedule hereunto annexed marked A, and to the said Declaration shall be appended a Certificate to its verity from any Government Officer who may be attached to the Distillery where such Rum or Rum Shrub is declared to have been manufactured in the form prescribed in the said Schedule A.

III. And it is hereby enacted, that if the District be one into which the Governor General of India in Council has not, by any Order, authorized the importation of Foreign Sugar or Rum, or of Sugar or Rum the growth or produce of any British possession into which Foreign Sugar or Rum can be legally imported, then the Officer before whom such a Declaration as is aforesaid shall have been made, shall grant under his hand and seal to the Declarant a Certificate in the form contained in the Schedule hereunto annexed marked B.

IV. And it is hereby enacted, that every person who intends to ship Rum or Rum Shrub from any place within the said Territories for any part of the United Kingdom, shall be entitled to produce to the Collector of Customs at that place, or to any other Officer who may have been appointed by the Governments of the respective Presidencies to act on that behalf in place of the Collector of Customs a Certificate, such as is above described, and also in
the

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the presence of the Officer to whom he has so produced such Certificate to make and subscribe a Declaration in the form contained in the Schedule hereunto annexed marked C.

V. And it is hereby enacted, that the Officer to whom such a Certificate shall have been so produced, and before whom a Declaration in the last mentioned form shall have been so made and subscribed, shall, unless he see cause to deem such Declaration fraudulent and untrue, grant to the person who has made the last mentioned Declaration a Certificate in the form contained in the Schedule hereunto annexed marked D.

VI. And it is hereby enacted, that the Owner of Rum or Rum Shrub intended for exportation under this Act, or the duly authorized Agent of such Owner shall not be entitled to any of the Certificates described in this Act unless such Rum or Rum Shrub shall be the produce of a Distillery worked according to law in the European method under License from the Board or other authority vested with the management of the Revenue derived from the Abkarry or Tax on Spirits.

VII. And it is hereby enacted, that the Rum and Rum Shrub manufactured for exportation to the United Kingdom under this Act at any Licensed Distillery shall be manufactured pure without admixture of Spirits made from Rice, Grains, or any other substance or substances not being the produce of the Sugar Cane or of the Date or Palm-tree, and shall be so declared and verified at the time of application for a Certificate of Origin according to the form of Schedule A.

VIII. And it is hereby enacted, that if any Rum or Rum Shrub that may be brought to any Custom House for exportation under this Act shall be
found

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found to be adulterated or mixed contrary to the above prohibition, the same with the casks or materials in which it is contained shall be seized and confiscated, and the party or parties upon whose Declaration Certificate of manufacture free from adulteration or mixture may have been granted for the admission of such Rum or Rum Shrub to the privilege of exportation under this Act, as well as the party or parties who may have verified such Declaration, shall be proceeded against for the false and fraudulent Declaration as hereinunder prescribed.

IX. And it is hereby enacted, that any person who shall in making any Declaration under the authority of this Act, knowingly affirm an untruth, shall on conviction thereof before such Court as would be competent to try such person for perjury, be punished as in cases of perjury; and every person procuring another person to affirm such untruth shall be liable to be punished as in cases of subornation of perjury, and any Officer of Government subscribing an attestation to the verity of such Declaration knowing the same to be untrue, shall be subject to a like penalty as the false Declarant, besides dismissal from the employment of Government.

SCHEDULE A.

I, A B, solemnly declare that all the Rum or Rum Shrub hereinunder described is the produce of the Licensed Distillery named _____ in the District of _____, and that the said Rum or Rum Shrub is the produce of the Sugar Cane, Date, or Palm-tree, and wholly free from any admixture of Spirits manufactured from Rice, Grains, or any other substance whatever.

(Signed) A B.

The ____ day of ____ 18—,

I,

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* I, B B, Government Officer in charge on the part of Government of the ——— Distillery, do hereby certify that the above is a true and correct Declaration.

B B,

Govt. Officer attached to the

————— Distillery.

Description of the ——— to which the above Declaration relates.

Quantity in Gallons.	Quality.	Average strength by Skyes's Hydrometer.	Number and denomination of Packages.	Marks on Packages.

(Signed)

A B.

The ——— day of ——— 18——.

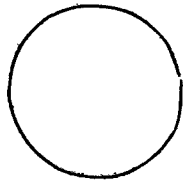
Collector's number ———.

Collector's date ——— of ——— 18——.

(Signed)

Y Z, Collector.

Seal of the Collector.



SCHEDULE B.

I, C D, Collector of Land Revenue (or Collector of Custom Revenue, or being an Officer appointed by the Governor General of India in Council to

* This Declaration must be drawn out before the Rum leaves the Distillery in order that the attestation of the Government Officer may be attached.

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to act in this behalf) for the District of _____ do hereby in conformity with the provisions of Act _____ grant this Certificate under my hand and seal, that the Rum or Rum Shrub described in the Declaration hereunto annexed, which is sealed with the seal of this office, numbered _____ of _____ 18____, _____ dated the _____ of _____ 18 _____ and signed by _____ Manager or Owner of the Licensed Distillery called _____ is the produce of the District of _____ and is declared to be free from any admixture of Spirits manufactured from other substance than the Sugar Cane, Date or Palm-tree, and that the importation of Foreign Sugar and Rum and of Sugar and Rum the growth or produce of any British possessions into which Foreign Sugar and Rum can be legally imported, is prohibited in the said District of _____.

L. S.

This _____ day of _____ 18____.

(Signed) C D.

SCHEDULE C.

I, E F, Shipper of the Rum or Rum Shrub hereinunder described, solemnly declare, that all the Rum or Rum Shrub hereinunder described, is, to the best of my knowledge and belief, the same Rum or Rum Shrub to which the Certificate now produced by me relates.

(Signed) E F.

Description of _____ to which this Declaration relates.

Quantity in Gallons.	Quality.	Average strength by Sykes's Hydrometer.	Number and denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

The _____ day of _____ 18____.

(Signed) E F.

SCHEDULE D.

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SCHEDULE D.

I, R W, Collector of Customs, (or being an Officer appointed by the Governor General of India in Council to act in this behalf) for the Port of _____, certify under my hand and seal, that there has been produced to me by E F, the Shipper of the Rum or Rum Shrub hereinunder described, a Certificate under the hand and seal of C D, Collector of Land Revenue; (or Collector of Custom Revenue, or being an Officer appointed by the Governor General of India in Council to act in this behalf) for the District of _____, in the Territories forming part of the Presidency of Fort William or Agra, which Certificate certifies that the said Rum or Rum Shrub is of the produce of the said District, and is declared to be free from any admixture of Spirits manufactured from other substance than the Sugar Cane, Date or Palm-tree, and that the importation of foreign Sugar and Rum, or Sugar and Rum the growth or produce of any British possession into which foreign Sugar and Rum can be legally imported, is prohibited in the said District.

L. S.

(Signed) R W,

Collector of Customs.

The _____ day of _____ 18 .

Description of the _____ to which the Certificate relates.

Quantity in Gallons.	Quality.	Average Strength by Sykes's Hydrometer.	Number and denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

(Signed) R W,

Collector of Customs.

ACT No. VII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 14th of June, 1841.*

*An Act for a more uniform and an improved process for taking the examination
of absent witnesses.*

I. **I**T is hereby enacted, that all Regulations and parts of Regulations for taking the examination of absent witnesses in any Presidency, are hereby repealed.

II. And it is hereby enacted, that it shall be lawful for any Court within the Territories under the Government of the East India Company, and the several Judges thereof, in every Civil proceeding depending in such Court, upon the application of any of the parties to such proceeding, to order the examination, upon interrogatories or otherwise, before any Officer of and such Court, or other person or persons named in such order, of any witnesses within the jurisdiction of the Court where the proceeding shall be depending, or to order a Commission to issue to any subordinate Court for the examination of such witnesses upon interrogatories or otherwise, or to order a Commission to issue to any other Court for the examination of witnesses at any place or places out of such jurisdiction upon interrogatories or otherwise, and
by

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by the same or any subsequent order or orders to give all such directions for taking such examinations as well within the jurisdiction of the Court wherein the proceeding shall be depending as without as may appear reasonable and just ; provided always that any Court to whom any such Commission shall be directed shall take the examination in open Court in all cases where witnesses are able to attend in Court and are not exempted from attendance by law, absolutely, or at the discretion of the Court. Provided also that such Commissions as aforesaid for the examination of witnesses out of such jurisdiction may be directed otherwise than to some Court under special circumstances which may appear to the Court issuing the Commission to render such special direction expedient. Provided also that all Commissions issued and Orders made by any Court of the East India Company, and which are required to be executed within the local limits of any of Her Majesty's Supreme Courts, shall be directed in manner hereinafter mentioned.

III. And it is hereby enacted, that when any Order shall be made for the examination of witnesses within the jurisdiction of the Court wherein any such proceeding as aforesaid shall be depending by the authority of this Act, it shall be lawful for the Court or any Judge thereof in and by the first Order to be made in the matter, or any subsequent Order to command the attendance of any person to be named in such Order, and to direct the attendance of any such person to be at his own place of residence or elsewhere, if necessary or convenient so to do, and to produce all necessary documents and papers, And the wilful disobedience to any such Order shall be deemed a contempt of Court and punishable as in other cases of refusing or neglecting to give testimony. Provided always that every person whose attendance shall be required, under this Act shall be entitled to the like payment for expenses and loss of time as upon attendance in Court in cases where such expenses are now allowed.

IV.

ACT No. VII. OF 1841.

IV. And it is hereby enacted, that it shall be lawful for every Court or person authorized to take the examination of witnesses by any Order or Commission issued in pursuance of this Act, and they are hereby authorized and required to take all such examinations upon oath or affirmation where an affirmation is admissible or required upon a trial, and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and every person causing or procuring another person to commit the offence of perjury hereby defined shall be guilty of subornation of perjury.

V. And it is hereby enacted, that before any Order or Commission for the examination of any witness under this Act shall be issued the Court or Judge issuing the same shall be satisfied that there is good reason for believing that the witness will be unable to attend at the usual time for examination by reason of absence from the jurisdiction, sickness or other cause allowed by law. And before granting any such Commission, the Court granting the same shall make particular enquiry as to the present residence of the witness whose deposition is to be taken under such Commission, and as to the Court of the same degree as the Court granting such Commission, or of inferior degree to such Court which may be nearest to the place of residence of the witness, and the Commission shall ordinarily be directed to such Court of equal or inferior degree as may most conveniently execute the same. Provided however that if there be doubt as to which is the most convenient Court of equal or inferior jurisdiction, such Commission may be directed to the Judge having jurisdiction within the district within which the Commission is to be executed. And the Judge shall at his discretion execute the Commission in his own Court, or direct it to any subordinate Court within his district, which shall have the same effect for all the purposes of this Act as if the

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the Commission had in the first instance been directed to such subordinate Court. And no deposition taken under this Act, except as hereinafter mentioned, shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant without collusion more than 50 coss from the place where the Court is held, or exempted by law, absolutely or at the discretion of the Court, from personal appearance in Court, or unless the Court shall at its discretion dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same; and after the witness shall be produced, and shall have delivered his testimony, it shall be lawful for the Court at its discretion to authorize the reading of the deposition. And all depositions taken under this Act, being duly certified, may be read, at the discretion of the Court, without proof of the signature to such certificate.

VI. And it is hereby enacted, that any Court other than one of Her Majesty's Courts, or any Judge thereof, may issue such Commissions as aforesaid, and such Orders as are indicated in the second and third Sections of this Act to be executed within the local limits of the jurisdiction of any of Her Majesty's Courts, and all such Commissions and Orders except when directed otherwise than to a Court, shall be directed to a Court of Requests having jurisdiction within such limits or any part thereof.

VII. And it is hereby enacted, that such Commissions and Orders as aforesaid may be issued for execution under this Act within the territories of Princes and States in alliance with the East India Company, and all persons
within

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within such last mentioned territories being in the service of the East India Company are hereby required to pay obedience thereto, and for disobedience thereof shall on being found within the jurisdiction of the Court, or Judge issuing any such Commission or Order be punishable in like manner, as if such offence had been committed within such jurisdiction; and for giving false testimony under the same shall be punishable by any Court of Justice within the territories of the East India Company.

VIII. And it is hereby enacted, that whenever the evidence of any absent witness shall be required out of the jurisdiction of the Court in which the proceedings for which the evidence is wanted may be pending and the Commission shall be directed to any Court, such Court may punish the wilful disobedience of any such Order as aforesaid as a contempt notwithstanding it shall not itself have made such Order, with the same amount of punishment as in other cases of refusing or neglecting to give testimony.

ACT No. VIII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 21st of June, 1841.*

*An Act to enable Her Majesty's Supreme Courts within the Territories of the
East India Company to give relief against adverse claims made upon persons
having no interest in the subject of such claims.*

I. **W**HEREAS it often happens that a person sued at Law for the recovery of Money or Goods wherein he has no interest, and which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in Equity against the Plaintiff and such third party, usually called a Bill of Interpleader, which is attended with expence and delay ;

It is hereby enacted, that upon application made by or on the behalf of any Defendant sued in any of Her Majesty's Supreme Courts in any action of Assumpsit, Debt, Detinue, or Trover, such application being made after declaration and before plea by Affidavit or otherwise, showing that such Defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who
has

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has sued or is expected to sue for the same, and that such Defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject matter of the action in such manner as the Court (or any Judge thereof) may order or direct, it shall be lawful for the Court, or any Judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the Plaintiff, and in the mean time to stay the proceedings in such action, and finally to order such third party to make himself Defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues, and also to direct which of the parties shall be Plaintiff or Defendant on such trial, or with the consent of the Plaintiff and such third party, their Counsel or Attornies to dispose of the merits of their claims, and determine the same in a summary manner, and to make such other rules and orders therein as to cost and all other matters as may appear to be just and reasonable.

II. And it is hereby enacted, that the judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

III. And it is hereby enacted, that if such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the Court or Judge to declare such third party, and all persons claiming by, from, or under him to be forever barred from prosecuting his claim against the original Defendant, his Executors or Administrators; saving nevertheless the right or claim of such
third

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third party against the Plaintiff; and thereupon to make such order between such Defendant and the Plaintiff, as to costs or other matters, as may appear just and reasonable.

IV. And it is hereby provided, that every order to be made in pursuance of this Act by a single Judge not sitting in open Court, shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

V. And it is hereby enacted, that if upon application to a Judge, in the first instance or in any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, it shall be lawful for him to refer the matter to the Court, and thereupon the Court shall and may hear and dispose of the same in the same manner as if the proceeding had generally commenced by the rule of Court instead of the order of a Judge.

VI. And whereas difficulties sometimes arise in the execution of process against Goods and Chattels issued by or under the authority of the said Courts, by reason of claims made to such Goods and Chattels by Assignees of Bankrupts and other persons not being the parties against whom such process has issued, whereby Sheriffs and other Officers are exposed to the hazard and expence of actions; and it is reasonable to afford relief and protection in such cases to such Sheriffs and other Officers, it is therefore hereby further enacted, that when any such claim shall be made to any Goods or Chattels taken or intended to be taken in the execution under any such process or to the proceeds or value thereof, it shall and may be lawful to and for the Court from which such process, issued upon application of such Sheriff or other Officers made before or after the return of such process, and as well before as after any action brought against such Sheriff or other Officer, to call before
them

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them by rule of Court as well the party issuing such process as the party making such claim, and thereupon to exercise for the adjustment of such claims and the relief and protection of the Sheriff or other Officer, all or any of the powers and authorities hereinbefore contained, and make rules and decisions as shall appear to be just, according to the circumstances of the case, and the costs of all such proceedings shall be in the discretion of the Court.

VII. And it is hereby enacted, that all Rules, Orders, Matters and Decisions to be made and done in pursuance of this Act except only the Affidavits to be filed, may together with declaration in the cause if any, be entered of record with a note in the margin, expressing the true date of such entry, to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such Rule or Order, and every such Rule or Order so entered shall have the force and effect of a judgment except only as to becoming a charge on any Lands, Tenements or Hereditaments ; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, his Agent or Attornèy, execution may issue for the same by Fieri Facias, or Capias ad satisfaciendum, adapted to the case, together with the costs of such entry, and of the execution if by Fieri Facias, and such Writ or Writs may bear Teste on the day of issuing the same, whether in term or vacation, and the Sheriff or other Officer executing any such Writ shall be entitled to the same fees, and no more as upon any similar Writ grounded upon a judgment of the Court.

ACT No. IX. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 28th of June, 1841.*

*An Act concerning the adjudication of certain penalties imposed by Act XXV.
of 1840, for the better protection of the Abkaree Revenue within the
Presidency of Fort William in Bengal.*

I. **I**T is hereby enacted in modification of Section XIV. Act XXV. of 1840, that offenders punishable under the said Section of the said Act, shall be liable to a fine not exceeding 200 Rupees, or to imprisonment for a term not exceeding three months, and in case of non-payment of the fine, to imprisonment not exceeding the same term. And the sentence shall in every case, be adjudged by a Superintendent of Abkaree Revenue, indicated in Section II. of the said Act.

ACT No. X. OF 1841.

*Passed by the Right Hon'ble the Governor General
of India in Council on the 5th July, 1841.*

*An Act for prescribing the Rules to be observed, in order that
ships or vessels belonging to ports within the territories, under
the Government of the East India Company, or belonging
to Native Princes or States, or their subjects, may become
entitled to the privileges of British ships under a proclama-
tion of the Governor General of India in Council, made in
pursuance of the Stat. 3d and 4th Victoria Ch. LVI.*

I. **W**HEREAS by a Statute passed in the 3d and 4th years of Her Majesty Queen Victoria, entitled "An Act to regulate the trade of ships built and trading within the limits of the East India Company's Charter," it is enacted "that it shall be lawful for the Governor General of India in Council, by Proclamation, to declare that all ships or vessels built or to be built within the limits of the Charter of the East India Company, being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate,
and

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“ and belonging, under the Regulations hereinafter provided
“ for, to any ports in the territories under the Government
“ of the said Company, shall be deemed to be British ships for
“ all the purposes of trade within the said limits, including the
“ Cape of Good Hope, and the territories and dependencies
“ thereof; provided that upon such declaration being made the
“ said Governor General in Council shall, and the said Go-
“ vernor General in Council is hereby accordingly empowered
“ to make Regulations, to be enforced by suitable penalties,
“ concerning the registering, licensing and ascertaining the
“ admeasurement of the tonnage and burden, and generally for
“ the trading within the limits aforesaid of such ships or vessels.”

And whereas it is further enacted in the same Statute as follows,
that is to say, “ And whereas it may be expedient to admit to
“ similar privileges and advantages any ships or vessels belong-
“ ing to Native Princes or States in subordinate alliance with,
“ or having subsidiary treaties with the East India Company, or
“ owned by subjects of any such Princes or States, be it therefore
“ enacted that the Governor General of India in Council may
“ by such Regulations as aforesaid, such regulations being
“ subject as aforesaid, admit to the privileges and advantages of
“ British ships for the purposes of trade within the limits of the
“ Charter of the said Company, including the Cape of Good
“ Hope, and the territories and dependencies thereof, or to any
“ of such privileges and advantages, any ships or vessels belong-
“ ing to such Princes or States, or any of them, or owned by
“ subjects of any such Princes or States; but any such Regula-
“ tions shall provide for the granting to such ships or vessels fit
“ and convenient licences or passes, and generally for the trading
within

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“ within the limits aforesaid of such ships or vessels.” And whereas in pursuance of such enactments it is expedient to frame such Regulations as are mentioned therein the compliance with which shall be required in order that ships or vessels may be deemed British ships, or be admitted to the privileges and advantages of British ships under such Proclamation as aforesaid ;

It is hereby enacted, that no ship or vessel shall be deemed a British ship under such Proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned within the territories of the East India Company, and shall have obtained a certificate of such registry from the person or persons authorised to make such registry and grant such certificate as hereinafter directed ; the form of which certificate shall be as follows :

Ships to be Registered.
Certificate of Registry.

“ This is to certify, that in pursuance of the Act No. X of 1841, of the Governor General of India in Council (here insert the names and occupation and residence of subscribing owners) having made and subscribed the declaration required by the said Act and having declared that (he or they) together with (names, occupations and residence of non-subscribing owners,) (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the (ship's name) of (place at which the vessel shall be registered) which is of the burthen of (number of tons), and whereof (master's name) is

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master, and that the said ship or vessel was (when and where built) and (name and employment of Surveying Officer) having certified to us, that the said ship or vessel has (number) decks and (number) masts, that her (here insert the measurement as ascertained by the rules hereinafter mentioned) that she is (how rigged) rigged with a (standing or running) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head : and the said subscribing owners having consented and agreed to the above description, the said ship or vessel called the (name) has been duly registered at the port of (name of port), certified under our hands at the Custom House, in the said port of (name of port), this (date) day of (name of month) in the year (words at length).

(Signed) _____ Collector or Registrar of Shipping.

And on the back of such certificate of registry, there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following :

<i>Names of several owners with- in mentioned.</i>	<i>Number of shares held by each owner.</i>
Name	Thirty two.
Name	Sixteen.
Name	Eighth.
	&c. &c."

(Signed) _____ Collector.

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II. And it is hereby enacted, that the ports at which registration shall be made, shall be the ports of Calcutta, Madras, Bombay, Singapore, and such other places subordinate to the local Governments of India, as such Governments respectively may, from time to time, declare to be registering ports under this Act. *Ports of Registry.* Provided, that ships or vessels built at any place other than any of such ports, shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the principal British Officer at the place where the ship is built, or if there be no British Officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered. Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and if they be not registered within a reasonable time after their arrival at the port of registry the owner or owners, or master or other person having or taking the command or charge of such ship or vessel shall be liable on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies to a penalty not exceeding 5,000 rupees.

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Registrars. III. And it is hereby enacted, that the persons authorized to make such registry, and to grant such certificates as aforesaid, shall be the persons now authorized to make registry of ships or vessels under the Statute 3 and 4 W. 4. Ch. 35, and such other or different persons as the local Governments may from time to time appoint for the ports under their respective Presidencies.

Book of Registry. IV. And it is hereby enacted, that at every port where registry shall be made in pursuance of this Act a book shall be kept by the Registering Officer in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression beginning such progressive numeration at the commencement of each and every year. And such Registering Officer shall forthwith, or within one month at the furthest, send to the Government of the Presidency to which he is subordinate a true and exact copy, together with the number of every certificate which shall be by him so granted.

Declaration. V. And it is hereby enacted, that no registry shall henceforth be made or certificate be granted, until the following declaration be made or subscribed before the Registering Officer, by the owner or major part of the owners of the ship or vessel required to be registered.

I, A. B., of (place of residence and occupation) do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present master, being (kind of built, burthen,

et

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et cetera, as described in the certificate of the Surveying Officer) was (when and where) built, and that I the said (A. B.) and the other owners (names and occupations if any and where they respectively reside) am (or are) sole owner (or owners of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto; and that I the said (A. B.) and the said other owners (if any) am (or are) truly and bona fide a subject (or subjects) of Her Majesty for whom the Governor General of India in Council has power to legislate, and that no person not being subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel. Provided that if the Registering Officer shall see occasion to doubt the truth of any of the facts contained in the above declaration he shall not deem such declaration to be conclusive, but may refuse the registry or certificate, and his discretion exercised in this behalf shall be subject only to an appeal to the local Government to which he is subordinate.

VI. And it is hereby enacted, that in case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent, is, or are not resident within twenty miles of such port or place, and hath or have not to the best of his or their knowledge or belief, wilfully absented himself or themselves in order to avoid
the

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the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.

Measurement to be made.

VII. And in order to enable the Registering Officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other Officers of Customs on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted, that previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by the local Governments respectively, taking to his or their assistance if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships, shall go on board of every such ship or vessel that is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate hereinbefore directed in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master, and shall deliver a true and just account in writing of all such particulars of the built, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the Officer authorized to make such registry and grant such certificate of registry as aforesaid; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate

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certificates of such Surveying or Examining Officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.

VIII. And it is hereby enacted, that from and after the commencement of this Act the tonnage of every ship or vessel required by law to be registered, shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule ; (that is to say) divide the length of the upper deck between the afterpart of the stem and the forepart of the stern post into six equal parts. Depths : at the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the underside of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths : divide each of those three depths into five equal parts and measure the inside breadths at the following points, videlicet, at one-fifth and at four-fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. Length : at half the midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the sternpost, then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths ; add together the upper and lower breadths at the foremost division, three times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the

Rules of measurement.

sum

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sum of the breadths ; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth and height of such part thereof as may be included within the bulk head ; multiply these three measurements together and dividing the product by 92.4 the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.

Measurement of Steam-
vessels.

IX, And it is hereby provided, that in each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine room shall be determined in the following manner ; that is to say, measure the inside length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two-fifths of the depth from the deck taken as aforesaid, and divide the last product by 92.4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.

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X. And it is hereby provided, that the tonnage due to the cubical contents of the engine room and also the length of the engine room shall be set forth in the certificate of registry as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine room, or of such length of the engine room, after registry, shall be deemed to be an alteration requiring registry de novo within the meaning of the said Act for the registering of ships or vessels.

Alterations in Steam vessels requiring new Registry.

XI. And it is hereby enacted, that for the purpose of ascertaining the tonnage of all such ships whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established; (that is to say,) measure, first, the length on the upper deck between the after-part of the steam and the forepart of the stern-post; secondly, the inside breadth on the underside of the upper deck at the middle point of the length; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin, multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.

Measurement of laden vessels.

XII. And it is hereby enacted, that the true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this Act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length

Registered tonnage to be marked

on

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on the main beam of every such ship or vessel, prior to her being registered.

Country Craft not exceeding 200 tons.

XIII. And it is hereby provided that Country Craft employed in coasting voyages not exceeding the burden of 200 tons, may be registered and the tonnage marked according to rules to be prescribed from time to time by the respective local Governments.

Registered tonnage to be repeated in every subsequent register.

XIV. And it is hereby enacted, that whenever the tonnage of any ship or vessel shall have been ascertained according to the rules herein prescribed such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form of burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.

Fraudulent use of Certificate.

XV. And it is hereby enacted, that if such certificate as aforesaid shall be sold, lent, or otherwise disposed of to any person or persons whatever than those for whose use it is granted, or shall be made use of for the service of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the master or any owner of the ship or vessel who shall be proved to have sold, lent, or disposed of such certificate, or made use of the same as aforesaid, or shall have concurred in or been privy to the committing any such offence, shall be liable upon conviction
by

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by information as aforesaid to a penalty not exceeding 10,000 rupees. . And in case such ship or vessel shall be lost or taken by the enemy, burnt, or broken up, or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the Crown or the East India Company, or shall under any circumstances have been registered de novo, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in the territories of the East India Company to the Registering Officer at such port, in default whereof the master or any of the owners shall be liable on conviction by information as aforesaid in a penalty not exceeding 5,000 rupees. And if any person not being such subject as aforesaid shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of the territories of the East India Company, then and in such case the certificate of registry shall within seven days after such purchase or transfer of property in such ship or vessel; be delivered up to the Registering Officer at such port, and if such ship or vessel shall be in any place not within the territories of the East India Company when such purchase or transfer of property shall take place, then the certificate shall be delivered up within fourteen days after the arrival of such ship or vessel, or of the master thereof in any port of the territories of the East India Company to the Registering Officer
at

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at such port in default whereof the master or any of the owners shall be liable on conviction before any Justice of the Peace in a penalty not exceeding 5,000 rupees recoverable in manner provided by Act No. II of 1839.

Change of Master.

XVI. And it is hereby enacted, that when and so often as the master of any ship or vessel registered in manner herein before directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorized to make such registry and grant such certificates of registry at the report where such change shall take place, if it be a port within the territories of the East India Company, the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within the territories of the East India Company, then such delivery, memorandum and indorsement shall be made and notice given at the first port within the territories of the East India Company at which the new master shall arrive after such change. In default of which delivery of the certificate such new master or any of the owners shall be liable on conviction before a Justice of the Peace, to a penalty not exceeding 5,000 rupees recoverable as aforesaid.

XVII.

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XVII. And it is hereby enacted, that it shall not be lawful for any owner or owners of any ship or vessel, to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act, and that the owner or owners of all and every ship or vessel which shall be so registered, shall, before such ship or vessel after such registry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters of a length of not less than four inches, upon a black ground on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs in a distinct and legible manner, and shall so keep and preserve the same, and that if such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in any wise hide or conceal, or cause or procure or permit the same to be done, or shall in any written or printed paper, or other document describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described by any other name to any Officer or Officers of Revenue in the due execution of his or their duty, then and in every such case the certificate of registry shall thenceforth become utterly void, and such owner or owners, or master or other person having or taking the charge or command of such ship or vessel shall be liable on information as aforesaid to a penalty not exceeding 10,000 rupees.

Name of Ship.

XVIII.

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Certificate of building.

XVIII. And it is hereby enacted, that all and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall, and they are hereby required to produce to the person or persons authorized to grant such certificate, a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration before the person or persons hereinbefore authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.

Certificate lost or mislaid.

XIX. And it is hereby enacted, that if the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the Registering Officer of the port at which the ship is registered, such Officer shall and may, where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered de novo, and a certificate thereof to be granted. Provided always that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such Registering Officer shall and may grant a license
for

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for the present use of such ship or vessel, which license shall for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this Act. Provided always that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper Officers of Customs to be cancelled, and that no illegal use be made of the same, in default whereof the original certificate and the renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable on conviction before any Justice in a penalty not exceeding 5000 rupees recoverable as aforesaid.

XX. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted, that in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any such ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not,) shall wilfully detain and refuse to deliver up the same to the proper Officers of Customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or

Detention of Certificate.

owners

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owners thereof, it may and shall be lawful to and for any such last mentioned person to make complaint on oath of such detainer and refusal to any Justice of the Peace residing near to the place where such detainer and refusal shall be, and on such complaint the said Justice shall and is hereby required by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal, and if it shall appear to the said Justice on examination of such person or otherwise the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be subject on conviction before such Justice to a penalty not exceeding 1,000 rupees, recoverable as aforesaid, and the said Justice shall, and he is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel who shall on the terms and conditions of law being complied with make registry of such ship or vessel de novo, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered de novo; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded so that the said warrant of the Justice cannot be executed upon him, and proof there of shall be made to the satisfaction of the Registering Officer of the port at which the ship or vessel was registered, it shall be lawful for the said Officer to permit such ship or vessel to be registered de novo, or otherwise, in his discretion, to grant a license for the present use of such ship or vessel in like manner as is hereinbefore provided

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provided in the case wherein the certificate of registry is lost or mislaid.

XXI. And it is hereby enacted, that if any ship or vessel after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered de novo in manner hereinbefore required as soon as she returns to the port to which she belongs, or to any other port within the territories of the East India Company, on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered de novo, shall be liable on conviction before any Justice to a penalty not exceeding 5,000 rupees recoverable as aforesaid.

Registration de novo.

XXII. And whereas great inconvenience may arise from the Registering Officers being served with subpœnas requiring them to bring with them and produce, on trials in Courts of Law relative to the ownership of vessels, or otherwise the declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom. And whereas it would tend much to the dispatch of business if the attendance of such Registering Officers with the same upon such trials were dispensed with, it is therefore

Testimony of Registering Officers.

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therefore hereby enacted, that the Registering Officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her or their inspection and examination any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies, or an extract or extracts thereof respectively, and that the copy and copies of any such oath or declaration, registry or entry, shall upon being proved to be true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any Registering Officer, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals if produced by any Registering Officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.

False declaration.

Falsifying documents

XXIII. And it is hereby enacted, that if any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this Act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, falsified, or shall wilfully grant such certificate or other instrument in writing, knowing it to be false, such person

or

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or persons shall for every such offence be liable on conviction upon information as aforesaid to a penalty not exceeding 10,000 rupees. And if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.

XXIV. And it is hereby enacted, that when any ship or vessel duly registered under this Act, or sailing under the British Navigation Law, shall come to be owned by a Native Prince or State, or by any subject of such Native Prince or State as aforesaid, it shall be lawful for the Governor of Fort William in Bengal, or for the Governor in Council of any Presidency to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid by a pass to be issued under the Company's Seal and subscribed by a Secretary to Government, stating the voyage or voyages for which the same is to have effect, and the period for which it is to last; and it shall be lawful for the Governor of Fort William in Bengal, or the Governor in Council of any Presidency, to issue a similar pass conferring the privileges and advantages of a British ship for the purposes aforesaid under this Act to any ship or vessel built within the dominions of such Native Prince or State, and owned by such Prince or State, or by any of their subjects, provided always, that the ships belonging to Native Princes or States, or their subjects, in respect of which passes may be granted under this Act shall, during the voyage or voyages, or the period for which any such pass shall be granted be commanded by a subject of Her Majesty for whom the Governor General in Council has power to legislate.

Ships of Native States.

XXV.

ACT No. X. OF 1841.

Fees. XXV. And it is hereby enacted, that the fees demandable in respect of the granting any certificate or pass under this Act shall be fixed from time to time according to the directions of the Governor General in Council, but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different Presidencies.

Parts to which ships belong.

XXVI. And it is hereby declared and enacted, that all ships or vessels registered under this Act, shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered or in respect of which passes may have been granted which are unexpired at the time of passing this Act, shall for the purpose of being deemed British ships be deemed to belong to the ports at which they may have been registered or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the Statute 3 and 4 Vict. Ch. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act, touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the Statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

PROCLAMATION.

ACT No. X. OF 1841.

PROCLAMATION.

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the Statute 3d and 4th of Queen Victoria Cap. 56, entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter,") being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate and belonging under the provisions of the Act passed by the Governor General in Council No. X. of 1841, to any ports in the territories under the Government of the East India Company shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

ACT No. XI. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 5th of July, 1841.*

*An Act for consolidating and amending the Regulations concerning
Military Courts of Requests for Native Officers and Soldiers in
the Service of the East Company.*

I. **IT** is hereby enacted, that all Regulations and parts of Regulations concerning Military Courts of Requests are repealed ; provided always that nothing in this Act contained shall be held to alter or affect the jurisdiction of a single Officer duly authorized and appointed under the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the troops of those Presidencies respectively, or the trial by Panchayet of suits against Military persons according to the Rules in force under the Madras Presidency.

II. And it is hereby enacted, subject to the aforesaid proviso, that within the territories of the East India Company actions of debt and other personal actions against Native Officers, Soldiers and other persons
amenable

ACT No. XI. OF 1841.

amenable to the Articles of War for the Native Forces in the Military Service of the East India ^{Company}, or residing within any Station or Cantonment, and carrying on any trade or business in a Military Bazar, shall be cognizable before a Military Court and not elsewhere, provided the value in question shall not exceed 200 Rupees, and the defendant was a person of the description above mentioned, when the cause of action arose, and when the suit was instituted. Provided that no suit shall be brought before any Military Court under this Act to determine any dispute of caste or concerning any right to real property.

III. And it is hereby enacted, that the Commanding Officer of any Station or Cantonment, or Officer Commanding any portion of Troops in the field, is authorized to convene such Military Courts. And such Courts shall be composed, according to the orders of the Commander in Chief for the time being of the Presidency within which the Station or Cantonment is situate, or, in the absence of such orders, according to the discretion of the Convening Officer, either of not less than three European Commissioned Officers, or of not less than three Native Commissioned Officers, and, in the latter case, with an European officer of not less than five years' standing, to superintend and record the proceedings. Provided that if there be not a sufficient number of Officers to constitute a Court at the Station or Cantonment where any cause of action may arise, or where the defendant may be residing, the suit shall be determined at the nearest Station or Cantonment where a Military Court can be duly constituted as aforesaid.

IV. And it is hereby enacted, that such Military Courts shall be convened monthly, and shall be holden on some convenient day before the issue of the pay for each month.

V.

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V. And it is hereby enacted, that the forms of proceeding in every such Court shall be conformable to the usages observed on trials before Courts Martial held for the Native Troops in the service of the East India Company as far as the same are applicable. And any such Court shall have the like power of summoning witnesses as is possessed by Courts Martial. Provided always, that every such Court shall have the power of examining the parties to any suit and of requiring or dispensing with their attendance at its discretion. And every such Court shall have the like power of taking the examinations of absent parties and witnesses as is possessed by the Civil Courts of the East India Company, under Act No. VII of 1841, provided that the depositions taken under a Commission issued by any Military Court of Requests shall be receivable in evidence before any such Court subsequently held; Provided also that Commissions may be issued by Military Courts of Requests under this Act pursuant to the provisions of ^{Act} No. VII. of 1841, notwithstanding ~~the~~ the Courts to which the Commissions may be directed are not situate beyond the jurisdiction of such Military Courts.

VI. And it is hereby enacted, that witnesses omitting to attend, refusing to give evidence, or committing perjury, and persons suborning witnesses to commit perjury, shall be tried and punished, if amenable to Articles of War, by a Court Martial, subject to all the Rules contained in such Articles of War for the punishment of such offences in regard to trials for Military offences; and if not amenable to Articles of War, they may be tried and punished in the nearest of the Courts of the East India Company for the administration of Criminal Justice (whether such Court have ordinary jurisdiction over such person in Criminal matters or not) in like manner as if such offences had been committed in regard to any trial before such nearest Court.

VII.

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VII. And it is hereby enacted, that any person, Civil or Military, European or Native, using menacing words, signs, or gestures, or otherwise interrupting (whether being personally present or not,) the proceedings of any Military Court of Requests shall be punishable, if amenable to Articles of War by a Court Martial, or if not amenable to ~~the~~ Articles of War, in the nearest of the Courts of the East India Company for the administration of Criminal justice (whether such Court have ordinarily jurisdiction over such person in Criminal matters or not,) in like manner as if the offence had been committed in regard to any proceeding of the Court to which it is so referred.

VIII. And it is hereby enacted, that a record shall be kept of proceedings in every case tried before any Military Court of Requests. And such record shall contain the substance of the evidence given and the nature of such evidence as may have ^{been} rejected on the ground of its not being legally admissible, or relevant, or on other grounds, and the same shall be signed by the Members of the said Court. And such record or a copy thereof shall, with as little delay as is practicable, after the conclusion of the proceedings, be transmitted by the European President, or Superintending Officer of every such Court to the Officer Commanding the Station or Cantonment.

IX. And it is hereby enacted, that ~~where~~ where a demand shall exceed the amount of 200 Rupees, or where several separate demands shall exceed such amount, no more shall be recoverable from any one defendant by the same plaintiff or plaintiffs than the sum of 200 Rupees only—and the judgment in respect of any demand in a Court of Requests shall ~~be~~ be a bar to the recovery of the same demand or of any other or further demand for the same cause of action in any other Court whatever, provided that the
liability

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liability accrued before the time of instituting the suit in the Military Court—and it shall be competent for every such Military Court to investigate any counterclaim alleged by any defendant. And it shall be competent for every such Military Court to allow the interest for money agreed on between the parties, provided the same does not exceed the usage of the country in ordinary money transactions. And every contract made after the passing of this Act upon which a demand for debt exceeding 20 Rupees is founded, not being money due for goods bought and delivered, shall be in writing and expressed in the language of the defendant and signed by him, or on his behalf by some other person than the plaintiff. Provided that it shall not be competent to any Court of Requests to admit any suit for a debt which has accrued upwards of six years, unless a direct promise to pay made within six years of the commencement of the suit be proved.

X. And it is hereby enacted, that on failure of either of the parties to a suit to attend either personally or by representative, or to produce his witnesses according as he shall be required by any Military Court of Requests, such Court on being satisfied that the party has been duly apprized of what is required of him, may proceed to the termination of the suit in his absence. And if the decree in any such case shall be against the plaintiff, it shall not be competent for him to commence a new suit for the same cause of action.

XI. And it is hereby enacted, that it shall be lawful for the Commanding Officer to whom the proceedings have been transmitted as aforesaid to return the same for revision either by the same or another Military Court of Requests. And in every such case the second decree shall be final, unless for error in points of law, when the same shall be transmitted to the
Commander

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Commander in Chief, who shall have power to annul the proceedings without prejudice to any future suit. Provided always that in the case of any new trial the Court may receive evidence which was not adduced at the first trial.

XII. And it is hereby enacted, that every plaintiff shall prefer his claim in writing and shall deliver the same to the Station Staff-Officer. The claims shall be entered in a Schedule by the Station Staff-Officer, which Schedule is to be sent to Adjutants of Corps or Heads of Departments two days at least before the assembly of the Court, and the Adjutants or Heads of Departments shall be responsible that the defendants belonging to their respective Corps or Establishments have been duly summoned.

XIII. And it is hereby enacted, that every decree of any Military Court of Requests shall be published in the Station Orders before the same is executed.

XIV. And it is hereby enacted, that the execution of decrees of Military Courts of Requests may be either general or special, according to the sentence of the Court. Provided always that the Commanding Officer may, notwithstanding the direction of the Court, order that the execution shall be general or special at his discretion

XV. And it is hereby enacted, that in cases in which the execution is to be general, the debt if not paid forthwith, shall, under the authority of the Commanding Officer in writing to be signed by him, be levied by seizure and public sale of such of the Debtor's Goods (under which term are included houses or other erection within the limits of Stations and Cantonments) as may be found within the limits of the Station or
Cantonment,

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Cantonment, or elsewhere; and if sufficient Goods are not to be found, the debtor, if not a Soldier, shall be arrested and imprisoned in any Civil Gaol near to the Station or Cantonment, (for which purpose the provisions of Act No. II of 1840 shall be applicable) or in any other convenient place of confinement situate within the limits of the Station or Cantonment, for the space of two months, unless the debt be sooner paid, and his Goods, if found within the limits of the Station or Cantonments or elsewhere at any subsequent time, shall be liable to be seized and sold in satisfaction of the debt. And if the debtor be a Soldier and the debt be not liquidated by sale of his Effects, Accoutrements and Necessaries excepted, an order may be issued for payment of the residue by monthly deduction from the pay issued to the debtor under the Rules which follow.

XVI. And it is hereby enacted, that where the execution is to be special, the debt shall be satisfied out of the pay and allowances of the debtor and not otherwise. And a certificate of the decree and direction or order thereon certified under the hand of the Commanding Officer and signed by him, shall be a sufficient authority for making such stoppages. Provided always that no more than one-half of the pay and allowances of any Commissioned Officer, or than one-fourth of the pay and allowances of any non-Commissioned Officer or Soldier shall be stopped in any one month.

XVII. And it is hereby enacted, that in places beyond the Frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before such Military Courts as aforesaid against persons so amenable as aforesaid for any amount of demand: Provided that such Military Courts beyond the Frontier shall be composed of European Officers—and provided, that if the amount of claim shall exceed 200 Rupees
an

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an appeal shall lie to the Court of Sudder Adawlut of the nearest Presidency according to the rules in force with regard to appeals from subordinate Civil Courts.

XVIII. And it is hereby enacted, that this Act shall not affect the proceedings upon any suit heretofore commenced or which shall be commenced before the Tenth day of August next.

ACT No. XII. OF 1841.

*Passed by the Right Hon'ble the Governor General
of India in Council on the 19th July, 1841.*

*An Act for amending the Bengal Code in regard to Sales of
Land for Arrears of Revenue.*

I. **W**HEREAS it is deemed expedient with a view to the Preamble.
benefit of the Agricultural Community, to regulate the number
of periodical sales of Estates for arrears of Revenue ; to dis-
continue the levy of interest and penalty upon such arrears ; to
provide for the sale at fixed and known periods of Mehals, the
whole of the Land Revenue due from which may not have been
discharged on or by appointed days ; and otherwise to amend
the laws for the realization of the Land Revenue ;—

It is hereby enacted, that Sec. 2, Reg. XIV. 1793 ; Sec. Regulations res-
2, Reg. III. 1794, Reg. XI. 1822, except Sections 36 and cinded.
38, and Reg. VII. 1830 are rescinded, except in so far as they
rescind other Regulations or parts of Regulations.

II.

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Interest and Pen-
alty abolished.

II. And it is hereby enacted, that there shall be no demand of interest or penalty upon any arrear of Land Revenue which shall fall due after the date specified in Section XXXV. of this Act.

Days fixed for sale,

III. And it is hereby enacted, that upon the promulgation of this Act the Sudder Board of Revenue at Calcutta shall determine with regard to each permanently settled District or Zillah under their jurisdiction, the fixed dates in each year on which shall be commenced the process for realizing by sale of Mehals the arrears of Land Revenue due thereupon. And the said Board shall give notice of the dates so fixed in the Calcutta Gazette; and shall direct corresponding publication to be made, as far as regards each District, in the language of that District, in the Office of the Collector, or other Officer duly authorized to hold sales under this Act, and in the Courts of the Judge, Magistrate, Principal Sudder Ameen, Sudder Ameen, and Sudder Moonsiffs; and the days so fixed shall not be changed until the same be changed by the said Board by advertisements and notifications in the manner above described; such advertisements and notifications to be issued, on every occasion after the first above provided for, at least three months before the close of the official year preceding that in which the new date or dates are to take effect. Provided always, that another notice shall also be given for a period of not less than 15 clear days previous to each fixed date of sale by advertisement to be stuck up in each of the forenamed Offices and Courts, and the Collector shall be bound to furnish during this interval to all enquirers full particulars as to what estates are in balance, and the amount due on each.

IV.

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IV. And it is hereby enacted, that in Districts not permanently settled, and in the Province of Benares, no sale shall take place for arrears of Land Revenue or other demand of Government without the special sanction of the Sudder Board of Revenue previously obtained in each several case of sale.

Exception in un-settled Provinces and Benares.

V. And it is hereby enacted, that if the whole or a portion of a kist or instalment of any month of the year, according to which the settlement and kistbundee of any Mehal have been regulated be unpaid on the first of the following month of such year, the sum so remaining unpaid shall be considered an arrear of Revenue.

Definition of an arrear

VI. And it is hereby enacted, that except as hereinafter excepted, all Estates from which at sunset of the day preceding that fixed for a sale an arrear of Revenue may be due, shall on the said fixed day, or on the day or days following as hereinafter provided, be put up to public auction by and in the presence of the Collector or other Officer authorized by Government to exercise the powers of Collector in that behalf, and shall be sold to the highest bidder; and no payment or tender of payment made subsequent to sunset of the day preceding that fixed for a sale shall bar or interfere with the sale either at or after its conclusion.

All Estates in arrear to be sold.

VII. And it is hereby enacted, that no claim to abatement or remission of Revenue unless the same shall have been allowed by the authority of Government, nor any private demand or cause of action whatever held or supposed to be held

Claims to abatement and set off.

by

ACT No XII. OF 1841.

by any defaulter against Government shall bar a sale, or render a sale under this Act void or voidable ; nor shall the plea that money belonging to the defaulter, and sufficient to pay the balance or part of it, was in the Collector's hands, bar a sale or render a sale under this Act void or voidable, unless such money stand in the defaulter's name alone and without dispute, and unless after application in due time made by the defaulter, the Collector shall have neglected, or refused on insufficient grounds, to transfer it to the credit of the estate.

EXCEPTIONS.

VIII. Provided always, and it is hereby enacted, that no estate shall be sold for the recovery of arrears or demands of the description mentioned below, otherwise than after a notification in the language of the District, specifying the nature and amount of the arrear or demand, shall have been affixed, for a period of not less than fifteen clear days preceding the day of sale, in the Office of the Collector, or other Officer as aforesaid; by whom the sale is intended to be made, in the Court of the Judge within whose jurisdiction the land advertised lies, in the Courts of all the Principal Sudder Ameen, Sudder Ameen and Moonsiffs of the District, and at the Police Thannah of the Division in which the estate to which the notice relates, or part of it is situated, the same to be certified by the receipt of the Officer at whose Office such publication may have been made; and also at the Cutcherry of the Malgoozar of the estate, or at some conspicuous place upon the estate, the same to be certified by the peon or other person employed for the purpose. And it shall be declared in the said notification that no payment or tender of payment of the arrear or demand due, which may be
made

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made after sunset of the day preceding the fixed day of sale, will bar or interfere with the sale either at or after the transaction.

First.—Arrears due from or to be recovered by the sale of estates not permanently settled.

Secondly.—Arrears other than those of the current or of the preceding year.

Thirdly.—Arrears due on account of estates other than that to be sold.

Fourthly.—Arrears of estates under attachment by order of the Judicial Authorities.

Fifthly.—Arrears due on account of Tuccavy, Poolbundee, or other demands not being Land Revenue, but recoverable by the same process as arrears of Land Revenue.

IX. And it is hereby enacted, that Collectors shall, at any time before sunset of the day preceding the fixed day of sale receive as a deposit from any party not being a proprietor of the estate in arrear, the amount of the arrear of Revenue due from it, to be carried to the credit of the said estate at sunset as aforesaid, unless before that time the arrear shall have been liquidated by a proprietor of the estate. And in case the party so depositing, whose money shall have been credited to the estate in the manner aforesaid, shall be a plaintiff in a suit pending

Payments by non-proprietors.

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pending before a Court of Justice for the possession of the same or any part thereof, it shall be competent to the Judge of the Zillah in which such estate is situated, to order the said party to be put into temporary possession of the said estate, subject to the rules in force for taking security in the cases of appellants and defendants. And if the party depositing whose money shall have been credited as aforesaid shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said party, which would have been endangered, or damaged by the sale of the estate, he shall be entitled to recover the amount of the deposit with interest, from the proprietors of the said estate.

Ward's Estates and
Minors.

Attached by a Re-
venue Officer.

Attached by a Court

X. And it is hereby enacted, that no estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards, and no estate, the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI. 1822, shall be sold for arrears of Revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of 18 years. And no estate held under attachment by the Revenue Authorities, otherwise than by order of a Judicial Authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate held under attachment by a Revenue Officer, in pursuance of an order
of

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of a Judicial Authority, shall be liable to sale for the recovery of arrears of Revenue accruing during the period of such attachment, until after the end of the year in which such arrears accrued.

XI. And it is hereby enacted, that it shall be competent to the Collector at any time before the sale of an estate shall have commenced to exempt such estate from sale; and in like manner it shall be competent to the Commissioner of Revenue at any time before the sale of an estate shall have commenced, to exempt such estate from sale, by a special order to the Collector to that effect in each case; and no sale of an estate shall be legal if held after the receipt of an order of exemption in respect to such estate. Exemption from sale. Provided, however, and it is hereby enacted, that the Collector or Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also, that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector of the order for exempting it from sale. Proviso.

XII. And it is hereby enacted, that sales shall ordinarily be made by the Collector or other Officer duly authorized by Government in that behalf in the Land Revenue Cutcherry at the Sudder Station of the District, provided, however, that it shall be competent to the Sudder Board to prescribe a place for holding sales other than such Cutcherry whenever they shall consider it beneficial to the parties concerned.

XIII.

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Adjournment. XIII. And it is hereby enacted, that in case the Collector, or other Officer as aforesaid, shall be unable from sickness, from the occurrence of a holiday, or from any other cause to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his Cutcherry ; and so on, from day to day, until he shall be able to commence upon, or to complete the sale, but with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of sale. XIV. And it is hereby enacted, that on the day of sale fixed according to Section III. of this Act, sales shall proceed in regular order ; the estate to be sold bearing the lowest number on the Towjee or registers in use in the Collector's Office of the District being put up first, and so on, in regular sequence ; and it shall not be lawful for the Collector or other Officer as aforesaid to put up any estate out of its regular order by number.

Deposit on purchase. XV. And it is hereby enacted, that the party who shall be declared the purchaser of an estate at any such public sale as aforesaid, shall be required to deposit immediately, or as soon after the conclusion of the sale as the Collector may think necessary, either in Cash, Bank of Bengal Notes or Post Bills, or Government Securities duly indorsed, 25 per cent. on the

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amount of his bid and in default of such deposit, the estate shall, forthwith, be put up again and sold.

XVI. And it is hereby enacted, that the full amount of ^{Balance of purchase money} purchase money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate bought by him took place, reckoning that day as one of the thirty: or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth: and in default of payment within the prescribed period as aforesaid, then and afterwards as often as such default shall occur, the deposit shall be forfeited to Government, the estate shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate, or to any part of the sum for which it may subsequently be sold, and in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public Revenue, and it shall be so levied and credited to the defaulting proprietor of the estate sold, and if default of payment of purchase money shall have occurred more than once, the defaulting bidders shall be held jointly and severally responsible for such difference to the extent of the amount of their respective bids. Provided always, that every such re-sale shall be made after notification and in the forms prescribed by Section VIII. of this Act.

XVII. And it is hereby enacted, that whenever an estate ^{Rents stopped after notice for sale.} shall have been sold as aforesaid, the Collector, or other Officer

as

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as aforesaid, shall affix a proclamation in the language of the District in his Cutcherry ; and as soon thereafter as may be in the Cutcherries of the Moonsiffs and of the Darogahs of Police, within whose jurisdiction or jurisdictions any part of such estate may be situated ; and also at the Cutcherry of the Malgoozar of such estate ; or on some conspicuous place on such estate, forbidding the ryots and under-tenants of such estate to pay rent falling due subsequent to the date therein specified and up to the date of the subsequent notice hereinafter prescribed by Section XXI. of this Act, on pain of not being entitled to credit in their accounts with the purchaser for any sums paid within the period aforesaid.

Appeal.

XVIII. And it is hereby enacted, that it shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act if preferred to him on or before the fifteenth day from the date of sale, reckoning as in Section XVI, or if preferred to the Collector for transmission to the Commissioner on or before the tenth day from the day of sale, and not otherwise ; and the Commissioner shall be competent in every case of appeal so preferred, to annul any sale of an estate made under this Act, which shall appear to him not to have been conducted according to the provisions of this Act, awarding at the same time to the purchaser a payment from the proprietor of any moderate compensation, for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed interest, at the current rate of Government Securities, on the amount of deposit or balance of purchase money during the period of its being retained in the Collector's

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Collector's Office, and the order of the Commissioner shall, in such cases, be final.

XIX. And it is hereby enacted, that it shall be competent to the Commissioner of Revenue on the ground of hardship or injustice to suspend the passing of final orders in any case of appeal from a sale and to represent the case to the Sudher Board of Revenue, who, if they see cause, may recommend to the Local Government to annul the sale; and the Local Government in any such case, may annul the sale and cause the estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Government may restore Estate.

XX. And it is hereby enacted, that all sales of which the purchase money has been paid up as prescribed in Section XVI. of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the thirtieth day from the day of sale, reckoning the said day of sale, as the first of the said thirty days. And sales against which an appeal may have been preferred, and the appeal dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal, if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day as above provided.

Sale when to be final.

XXI. And it is hereby enacted, that immediately upon a sale becoming final and conclusive, the Collector or other Officer as aforesaid, shall give to the purchaser a Certificate of title in the following form:

Certificate of Title.

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I certify that A. B. has purchased at Public Auction under Act XII. of 1841, Mehal C, and that his purchase has taken effect on and since the — day of — (being the date of sale.)

(Signed) D. E, *Collector.*

And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate sold being vested in the person or persons named from the date specified: and the Collector shall also notify such transfer by written proclamation in his own Cutcherry, and in those of the Moonsiff and Darogah of the jurisdictions within which any part of the estate sold shall be situated, and also at the Cutcherry of the Malgoozar of the estate or on some conspicuous place on the estate; and shall apply the purchase money first to the liquidation of all arrears due upon the day of sale, or upon the day of the original sale, if the sale finally consummated be a re-sale; and secondly, to the liquidation of all outstanding demands debited to the Muhal in the Public accounts of the district, holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate sold, to be paid to their receipt on demand in the manner following; to wit, in shares proportioned to their recorded interest in the estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. Provided that, if prior to payment of any surplus that may remain of the purchase money after liquidation of all Government arrears and dues to the proprietor of the estate sold, or his representative, the same may be claimed by creditors in satisfaction of debts due by him

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him to them, or by any one creditor, such surplus shall not be payable to any such claimant, nor shall it be withheld from the proprietor by attachment, except under precept, and in satisfaction of decrees of Court for such debts. And if the balance of purchase money have in any such case been paid away in liquidation of the proprietor's just debts by order of any Court, and a decree shall afterwards pass for annulling the sale, the proprietor shall not be restored to possession until the amount so paid away be returned by him with interest.

XXII. And it is hereby enacted, that any suit brought to oust the certified purchaser as aforesaid, on the ground that the purchase was made on behalf of another person, not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs. Benamiee purchase.

XXIII. And it is hereby enacted, that the annulment of a sale by a Commissioner shall be publicly notified by the Collector or other Officer as aforesaid in the same manner as the becoming final and conclusive of sales is required to be notified by Section XXI. of this Act, and the amount of deposit and balance of purchase money shall be forthwith returned to the purchaser, with interest thereon, at the highest rate of the current public securities, from the dates on which they were respectively paid in, to the date on which the refund is actually made. Notice of annulment.

XXIV. And it is hereby enacted, that the party certified as the proprietor of an estate by purchase at public sale for the recovery Purchase liable for Mesne Revenue.

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recovery of arrears of Revenue shall be answerable for all instalments of the Revenue of Government which may fall due subsequently to the day of sale: provided, however, that in the case of re-sales the purchaser shall be answerable for all instalments of Revenue which fell due subsequently to the day of the first sale.

Grounds and conditions of reversal by a Civil Court.

XXV. And it is hereby enacted, that no sale for arrears of Revenue or other demands realizable in the same manner, made after the taking effect of this Act, shall be set aside by a Court of Justice except upon the ground of its having been made contrary to the provisions of this Act: And except the contravention thereto shall have been declared and specified in an appeal made to the Commissioner, under Section XVIII. of this Act, and except the action in the Civil Court be instituted within one year, from the date of the sale becoming final and conclusive, as provided in Section XX. of this Act: And no person shall be entitled to contest the legality of a sale after having received any portion of the purchase money: Provided, however, and it is hereby enacted, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or circumstance connected with a sale under this Act, from his remedy in a personal action for damages against the individual by whose act or omission he considers himself to have been wronged.

Proviso.

Refund on reversal of sale

XXVI. And it is hereby enacted, that in the event of a sale being reversed by a final decree of a Court of Justice, the purchase money shall be refunded to the purchaser by Government,
together

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together with interest at the highest rate of the current public securities.

XXVII. And it is hereby enacted, that the purchaser of ^{Enhancement of rents in Bengal, &c.} an estate sold under this Act, for the recovery of arrears due on account of the same, in the permanently settled districts of Bengal, Behar, Orissa and Benares, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled after notice given under Section X. Regulation V. 1812, to enhance at discretion, (any thing in the existing Regulations to the contrary notwithstanding) the rents of all undertenures in the said estate, and to eject all tenants thereof, with the following exceptions :

First. Tenures which were held as Istemreree or Mocrerrere at a fixed rent, more than 12 years before the permanent Settlement.

Secondly. Tenures existing at the time of the Decennial Settlement, which have not been, or may not be, proved to be liable to encrease of assessment, on the grounds stated in Section LI. Regulation VIII. of 1793.

Thirdly. Lands held by Khood Kasht or Kudeemee Ryots having rights of occupancy at fixed rents or at rents assessable according to fixed rules under the Regulations in force.

Fourthly. Lands held under bona fide leases, at fair rents, temporary or perpetual, for the erection of dwelling houses,

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houses, or manufactories, or for mines, gardens, tanks, canals, places of worship, burying grounds, clearing of jungle, or like beneficial purposes, such lands continuing to be used for the purposes specified in the leases.

Fifthly. Farms granted in good faith at fair rents and for specified areas by a former proprietor, for terms not exceeding twenty years, under written leases, registered within a month from their date. Provided that a written notice, specifying full particulars of the position, rent and area of the lands, the terms of the lease and the names of the parties shall at the same time be given by the latter to the Collector in every case, and the Collector shall be at liberty to object to the same in the event of his seeing reason to believe that the security of the Public Revenue will be materially affected thereby. The exception declared in this Clause shall not extend to leases objected to by the Collector, by a notification to be fixed up in his Office, with the sanction of the Commissioner, within three months of the date of the notice so made to him by the parties. Provided also, that a purchaser of an estate at a sale for arrears of Revenue shall be at liberty by suit in Court to set aside all such farms although the same be under written and duly registered leases, and although such notice may have been given as aforesaid, if the same shall not have been granted in good faith at fair rents.

*Under-tenures
elsewhere.*

XXVIII. And it is hereby enacted, that the purchaser of an estate sold under this Act for the recovery of arrears due on account of the same in Districts other than those mentioned
in

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in Section XXVII. shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be competent to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or credited by the first engager or his representatives, subsequently to the last Settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter, or renew, saving always and except bona fide leases of ground for the erection of dwelling houses, or buildings, or for offices thereunto belonging, or for gardens, tanks, canals, water-courses, or the like purposes, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect. Provided that nothing in this Act contained shall be construed to entitle any purchaser of land at a public sale to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid than was demandable by the former Malgoozar, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, in consequence of abatements having been granted by the former Malgoozars from the old established rates by special favour, or for a consideration, or the like, or in cases in which it may be proved that according to the custom of the pergunnah, Mouzah, or other local division such persons are liable to be called upon for any new assessment, or other demand not interdicted by the Regulations of Government.

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Local Government
may reserve all un-
der tenures.

XXIX. And it is hereby enacted, that it shall be competent to the Local Government when it shall seem proper at any time before a sale for arrear shall have been actually made, to direct it to be made, subject to the leases, assignments, or other incumbrances, with which a proprietor in possession, his ancestors, or predecessors may have burthened his assessed Estate, or to such of them as shall appear proper. In all such cases, notice of the condition imposed by the Local Government shall be given by the Collector at the time of calling up the lot for sale, and such further notification shall be made as the Local Government may direct: provided, however, that in case the sale so restricted shall not realize an amount equal to the arrear due at the time of sale, or there shall appear ground to apprehend, that by reason of the restriction the future realization of the Revenue will be endangered, it shall be competent to the Local Government at any time before such restricted sale shall have become final and conclusive in the manner laid down in Section XX of this Act, to direct the sale to be cancelled, and a new sale of the estate to be made without other restrictions than those contained in the exceptions specified in Clauses 1 to 5 of Sec. XXVII. of this Act. If after the sale has become final and conclusive, occasion should again arise to bring to sale for arrears an estate purchased with a restriction of the above description, it shall at all times be competent to the Local Government to direct that the *Mahal* shall be sold without any other restriction than those contained in the exceptions specified in Clauses 1 to 5 of Sec. XXVII. of this Act, or with the reservation before reserved. In the former event, should the purchase money realized by the
unrestricted

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unrestricted sale exceed in a large amount the sum obtained at the restricted sale, it shall further be competent to the Local Government to direct a portion, or the whole of the excess to be paid to persons whose interests having been reserved at the first, shall become void at the second sale.

XXX. And it is hereby enacted, that excepting copartners of estates under Butwarrah who may have saved their shares from sale under Sections 33 and 34, Regulation XIX. 1814, any recorded or unrecorded proprietor or copartner who may purchase in his own name or in the name of another the estate of which he is proprietor or copartner; or who by re-purchase or otherwise, may recover possession of the said estate after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for other arrears or demands than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale and shall not acquire any rights in respect to ryots and under-tenants which were not possessed by the previous proprietor at the time of the sale of the said estate.

Purchase by a recorded or unrecorded proprietor or copartner, &c.

XXXI. And it is hereby enacted, that arrears of rent which at the date of sale may be due to the defaulter from his tenants, shall be recoverable by him after a sale by any process except distraint which might have been used by him for that purpose before the sale was made.

Arrears of rent

XXXII. And it is hereby enacted, that any Collector or Officer exercising the powers of Collector, in respect to sales, shall

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shall be competent to punish any contempt committed in his presence in open Cutcherry or Office for the time being, by fine, to an extent not exceeding Co.'s Rs. 200, commutable, if not paid, to imprisonment in the civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector as aforesaid, shall carry his sentence into effect. Provided that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decision shall be final.

Default. XXXIII. And it is hereby enacted, that a default to make good a bid by making the deposit required by Section XV. of this Act shall be held to be a contempt.

Operation of Act . XXXIV. And it is hereby enacted, that the operation of this Act shall be confined to the Provinces of Bengal, Behar, Orissa and Benares, now subject to the General Regulations and to the Ceded and Conquered Provinces similarly subject to the General Regulations under the Government of the Presidencies of Fort William in Bengal, and nothing in this Act contained shall affect land in the Town of Calcutta or the Settlements of Singapore, Penang or Malacca.

Date of effect. XXXV. And it is hereby enacted, that this Act shall have effect on and after the First day of January 1842.

ACT No. XIII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 16th August, 1841.*

An Act for explaining the provisions of Act No. XXV. of 1836.

I. **I**T is hereby declared and enacted, that the Import Duty on Wine and Spirits in Casks shall be settled on the quantities registered at the time of Importation without any deduction whatsoever: Provided always, that the keeper of every Warehouse indicated by Act No. XXV. of 1836, shall, in accounting with the Customs' Department for the article so warehoused, be allowed ullage on such Wine and Spirits at the rate of 10 per cent. for one year according to the time for which such Wine and Spirits shall have been lodged.

ACT No. XIV. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 23d August, 1841.*

*An Act for the better Regulation of Markets in the Islands of Bombay and
Colaba.*

I. **I**T is hereby enacted, that whoever shall sell or expose for sale as good meat the flesh of animals that have died, or other noxious and unwholesome provisions of any kind, or shall use any false weights or measures for the purpose of fraud, or shall be guilty of any nuisance affecting the public health in any Market within the Islands of Bombay and Colaba, shall be liable on conviction before a Magistrate of Police to a fine not exceeding, 200 Rupees.

II. And it is hereby enacted, that it shall be lawful for any Magistrate of Police from time to time to examine all weights and measures used in any Market within the said Islands, and all provisions exposed for sale therein, and to cause such weights and measures as he shall find to be false and such provisions as he shall find to be noxious and unwholesome, to be
forthwith

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forthwith destroyed—and every person obstructing any Magistrate of Police in the premises, shall be liable on summary conviction before the Petty Sessions to a fine not exceeding 200 Rupees, or to imprisonment with or without hard labor for three months.

ACT No. XV. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 23d of August, 1841.*

*An Act for exempting Residents within Calcutta from giving Security in Suits in
the Mofussil Courts on certain occasions.*

I. **W**HEREAS great inconvenience has been experienced by Residents within Calcutta by reason of their being obliged to give security in suits in the Mofussil Courts, under Regulation IX of 1819, Section 7. And whereas there is no occasion for requiring such security now that by Act No. XXIII of 1840, property within Calcutta is liable to be seized under the process of the Mofussil Courts;—

It is hereby enacted, that Section 7, Regulation IX. of 1819, of the Bengal Code, is hereby repealed.

ACT No. XVI. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 30th of August, 1841.*

An Act concerning the taking of Oaths of Qualification by Justices of the Peace.

I. **W**HEREAS inconvenience has arisen in consequence of pursuing the course heretofore deemed necessary for taking of Oaths by Justices of Peace, in order that they may be duly qualified to act under Commissions of the Peace ;—It is hereby enacted, that all persons who are or shall be nominated and appointed in any Commission of the Peace, shall be capable of acting as Justices of the Peace in every respect, according to the tenor of such Commission, upon taking and subscribing in any Civil or Criminal Court of Justice within the places in and for which any such Commission shall have issued before the Officer presiding in such Court, whether such Officer be a Justice of the Peace or not, the Oaths appointed to be taken by Justices of the Peace ; and the subscription of such persons to the said Oaths shall be deposited and kept with the Records of the Courts of Justice in which the said Oaths shall have been administered.

II.

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II. And it is hereby enacted, that every Justice of the Peace who, before the passing of this Act, shall have had administered to him the Oaths of qualification by any other Justice of the Peace, shall be deemed to have been duly qualified to act as a Justice of the Peace from the time of taking such Oath, and shall continue so qualified notwithstanding such Oath may not have been taken in a Court of Justice as required by any previous Law, or by this Act.

ACT No. XVII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 30th of August, 1841.*

*An Act for amending the proceedings in appeals before the Courts of Sudder
Dewanny and Nizamut Adawlut in the Presidency of Fort William in
Bengal.*

I. **I**T is hereby enacted, that it shall be competent to either of the Courts of Sudder Dewanny and Nizamut Adawlut, within the Territories subject to the Presidency of Fort William in Bengal, by an Order, under the signature of the Register of such Court, to transfer to such Register the duty of preparing appealed causes for trial, and of executing the decrees and orders of the said Courts, and to authorize him to issue the necessary process, and to proceed thereupon agreeably to the Rules prescribed by the general Regulations of Government.

II. And it is hereby enacted, that in proceedings before the said Courts it shall not be necessary to take any security for costs ; and it shall be competent for the said Courts of Sudder Dewanny and Nizamut Adawlut to frame such

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such Rules of practice for the due exercise of the Civil and Criminal Jurisdiction vested by the Regulations in those Courts, as may from time to time be found requisite. And such rules when so framed shall be submitted to the Governor General of India in Council; and after the same shall have been approved by the said Governor General of India in Council, they shall be of the same force as if they were inserted in this Act.

ACT No. XVIII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 30th of August, 1841.*

*An Act for consolidating and amending the enactments concerning the exportation
of Military Stores.*

I. **IT** is hereby enacted, that Arms, Ammunition and Military Stores (with the exception of Arms in the possession of Individuals for private use) shall not be exported, or otherwise taken from the territories of the East India Company, without a license from a public Officer or Officers for each Presidency, to be indicated by the Governments of the respective Presidencies, for the purpose of granting such licenses, and a full compliance with all such rules and conditions as may be prescribed for the guidance of such Officer or Officers in regard to such exports by the aforesaid Governments respectively. And any Arms, Ammunition or Military Stores which any person shall export, or attempt to export, or take as aforesaid, contrary to this Act, shall thereby become forfeited, on the award of the Officer or Officers authorized as aforesaid to grant licenses, or the Collector of Customs, and every person offending in the premises contrary to this Act shall be liable, on conviction before a Magistrate, to a penalty not exceeding 500 Rupees.

II.

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II. And it is hereby enacted, that any person who shall collect or keep in one place, or within places not exceeding three miles in distance from each other, any quantity of Gunpowder exceeding fifty pounds, without a license from such Officer as aforesaid, shall be liable, on conviction before a Magistrate, to a penalty not exceeding 500 Rupees, and such Gunpowder shall become forfeited on the award of the Officer or Officers authorized to grant licenses as aforesaid, or the Collector of Customs.

III. And it is hereby enacted, that it shall be lawful for any of the Governments aforesaid, to allow at any port or ports, the exportation of Arms, Ammunition and Military Stores as aforesaid, without any such license as aforesaid, as they shall deem expedient.

ACT No. XIX. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 6th of September, 1841.*

*Act for the protection of moveable and immoveable property against wrongful
possession in cases of successions.*

I. **W**HEREAS much inconvenience has been experienced, where persons have died possessed of moveable and immoveable property, and the same has been taken upon pretended claims of right by gift or succession; the difficulty of ascertaining the precise nature of the moveable property in such cases, the opportunities for misappropriating such property and also the profits of real property, the delays of a regular suit when vexatiously protracted, and the inability of heirs when out of possession to prosecute their rights, affording strong temptations for the employment of force or fraud in order to obtain possession. And whereas, from the above causes, the circumstance of actual possession, when taken upon a succession, does not afford an indication of rightful title equal to that of a decision by a Judge after hearing all parties in a summary suit, though such summary suit may not be sufficient to prevent a party removed from possession thereby from instituting a regular suit. And
whereas

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whereas such summary suit, though it will take away many of the temptations which exist for assuming wrongful possession upon a succession will be too tardy a remedy for obviating them all, especially as regards moveable property. And whereas it may be expedient, prior to the determination of the summary suit, to appoint a Curator to take charge of property upon a succession, where there is reason to apprehend danger of misappropriation, waste or neglect, and where such appointment will, in the opinion of the authority making the same, be beneficial under all the circumstances of the case. And whereas it will be very inconvenient to interfere with successions to estates by the appointment of Curators, or by summary suits, unless satisfactory grounds for such proceedings shall appear, and unless such proceedings shall be required by or on the behalf of parties giving satisfactory proof that they are likely to be materially prejudiced if left to the ordinary remedy of a regular suit :—

It is hereby enacted, that whenever a person dies leaving property, moveable or immovable, it shall be lawful for any person claiming a right by succession thereto, or to any portion thereof, to make application to the Judge of the Court of the District where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

II. And it is hereby enacted, that it shall be lawful for any agent, relative, or near friend, or for the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being entitled by succession to such property as aforesaid, to make the like application for relief.

III. And it is hereby enacted, that the Judge to whom such application shall be made shall, in the first place enquire by the solemn declaration of the complainant,

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complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession or taking forcible means for seizing possession has no lawful title, and that the applicant, or the person on whose behalf he applies is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit, and that the application is made bonâ fide.

IV. And it is hereby enacted, that in case the Judge shall be satisfied of the existence of such strong ground of belief but not otherwise, he shall cite the party complained of, and give notice of vacant or disturbed possession by publication, and after the expiration of a reasonable time shall determine summarily the right to possession (subject to regular suit as hereinafter mentioned) and shall deliver possession accordingly—provided always that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the enquiry necessary for citing the party complained of or not.

V. And it is hereby enacted, that in case it shall further appear upon such application and examination as aforesaid that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the Judge to appoint one or more Curators with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always that, in the case of land, the Judge may delegate

ACT No. XIX. OF 1841.

delegate to the Collector or to his officer the powers of a Curator, and also that every appointment of a Curator in respect of any property be duly published.

VI. And it is hereby enacted, that the Judge shall have power to authorize such Curator, either to take possession of the property generally, or until security be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. Provided always, that it shall be entirely discretionary with the Judge, whether he shall allow the party in possession to continue in such possession on giving security, or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

VII. And it is hereby enacted, that the Judge shall exact from the Curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter mentioned, and may authorize him to receive out of the property such remuneration as shall appear reasonable, but in no case exceeding 5 per centum on the personal property and on the annual profits of the real property. All surplus monies realized by the Curator shall be paid into Court, and invested in public Securities for the benefit of the persons entitled thereto upon adjudication of the summary suit. Provided always, that although security shall be required from the Curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed Curator, yet no delay in the taking of security shall prevent the Judge from immediately investing the Curator with the powers of his office.

VIII.

ACT No. XIX. OF 1841.

VIII. And it is hereby enacted, that, where the estate of the deceased person shall consist wholly or in part of land paying revenue to Government, in all matters regarding the propriety of citing the party in possession, of appointing a Curator, and of nominating individuals to that appointment, the Judge shall demand a report from the Collector, and the Collector is hereby required to furnish the same: In cases of urgency, the Judge may proceed, in the first instance, without such report, and he shall not be obliged to act in conformity thereto, but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the Court of Sudder Dewany Adawlut, and the Court of Sudder Dewany Adawlut, if they shall be dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

IX. And it is hereby enacted, that the Curator shall be subject to all orders of the Judge regarding the institution or the defence of suits, and that all suits may be instituted or defended in the name of the Curator on behalf of the estate. Provided that an express authority shall be requisite in the sunnud of the Curator's appointment for the collection of debts or rents; but such express authority shall enable the Curator to give a full acquittance for any sums of money received by virtue thereof.

X. And it is hereby enacted, that pending the custody of the property by the Curator, shall be lawful for the Judge to make such allowances to parties having a primâ facie right thereto as upon a summary investigation of the rights and circumstances of the parties interested, he shall consider that necessity may require, taking, at his discretion, security for the repayment thereof with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.

XI.

ACT No. XIX. OF 1841.

XI. And it is hereby enacted, that the Curator shall file monthly accounts in abstract, and at the period of every three months, if his administration last so long, and upon giving up the possession of the property file a detailed account of his administration to the satisfaction of the Judge.

XII. And it is hereby enacted, that the accounts of any such Curator as is above described shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by such Curator. And if it be found that the accounts of any such Curator are in arrear, or if they shall be erroneous or incomplete, or if the Curator shall not produce them whenever he shall be ordered to do so by the Judge, he shall be liable to a fine not exceeding one thousand Rupees for every such default.

XIII. And it is hereby enacted, that after the Judge of any district shall have appointed any Curator, such appointment shall preclude the Judge of any other district within the same Presidency from appointing any other Curator provided the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a portion of the property of the deceased, this shall not preclude the appointment within the same Presidency of another Curator in respect of the residue or any portion thereof; provided always that no Judge shall appoint a Curator or entertain a summary suit in respect of property which is the subject of a summary suit previously instituted under this Act before another Judge—and provided further, that if two or more Curators be appointed by different Judges for several parts of an estate, it shall be lawful for the Sudder Dewany Adawlut to make such order as it shall think fit for the appointment of one Curator of the whole property.

XIV.

ACT No. XIX. OF 1841.

XIV. And it is hereby provided, that this Act shall not be put in force, unless the aforesaid application to the Judge be made within six months of the decease of the proprietor, whose property is claimed by right in succession.

XV. And it is hereby enacted, that this Act shall not be put in force to contravene any public act of Settlement. Neither in cases in which the deceased proprietor shall have given legal directions for the possession of his property after his decease in the event of minority or otherwise, in opposition to such directions, but, in every such case, so soon as the Judge having jurisdiction over the property of a deceased person, shall be satisfied of the existence of such directions, he shall give effect thereto.

XVI. And it is hereby provided, that this Act shall not be put in force, for the purpose of disturbing the possession of the Court of Wards of any Presidency ; and in case a minor, or other disqualified person whose property shall be subject to the Court of Wards, shall be the party on whose behalf application is made under this Act, the Judge if he determines to cite the party in possession and also appoint a Curator, shall invest the Court of Wards with the Curatorship of the estate pending the suit without taking such security as aforesaid, and in case the minor or other disqualified person shall, upon the adjudication of the summary suit appear to be entitled to the property, possession shall be delivered to the Court of Wards.

XVII. And it is hereby provided, that nothing in this Act contained shall be any impediment to the bringing of a regular suit either by the party whose application may have been rejected, before or after citing the party in possession, or by the party who may have been evicted from the possession under this Act.

XVIII.

ACT No. XIX. OF 1841.

XVIII. And it is hereby enacted, that the decision of the Judge upon the summary suit under this Act shall have no other effect than that of settling the actual possession; but that for this purpose it shall be final, not subject to any appeal or order for review.

XIX. And it is hereby enacted, that it shall be lawful for the Governments of the respective Presidencies to appoint public Curators for any district or number of districts. And the Judge having jurisdiction shall nominate such public Curator or Curators in all cases where the choice of a Curator is left discretionary with him under preceding provisions of this Act.

XX. And it is hereby enacted, that whenever a person dies leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts, and such Court shall be satisfied that danger is to be apprehended of the misappropriation and waste of the property before it can be ascertained who may be legally entitled to the succession to such property, it shall be lawful for the said Court to authorize and enjoin the Ecclesiastical Registrar, or one or more Curators to collect such effects, and hold or deposit or invest the same in such manner and place and upon such security and subject to such orders and directions as the Court may deem expedient.

ACT No. XX. OF 1841.

*Passed by the Right Hon'ble the Governor General of
India in Council on the 6th of September, 1841.*

*An Act for facilitating the collection of debts on successions, and
for the security of parties paying debts to the representatives
of deceased persons.*

I. **W**HEREAS it is expedient to provide greater security for persons paying to the Representatives of deceased Hindoos, Mahomedans, and others not usually designated as British Subjects, debts which are payable in respect of the estates of such deceased persons, and to facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same:—

It is hereby enacted, that no debtor of any deceased person shall be compelled in any Court of Law to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned, or of a
Probate

No debt recoverable without a certificate.

ACT No. XX. OF 1841.

Probate or Letters of Administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

Manner of obtaining certificate.

II. And it is hereby enacted, that the Zillah or District Court within the jurisdiction of which any part of the property of the deceased may be found shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Judge shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day, or as soon after as may be convenient shall determine the right to the certificate, and grant the same accordingly.

Effect of certificate.

III. And it is hereby enacted, that the certificate of the District or Zillah Judge shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

Security taken from grantees of certificate.

IV. And it is hereby enacted, that the District or Zillah Judge may take such security as he shall think necessary from any person to whom he shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate, whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

ACT No. XX. OF 1841.

V. And it is hereby enacted, that the granting of such certificate may be suspended by an appeal to the Court of Decision of Judge how far final. Sudder Dewanny Adawlut, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also upon petition, after a certificate shall have been granted by the District or Zillah Judge, grant a fresh certificate in supersession of the certificate granted by the District or Zillah Judge, and such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.

VI. And it is hereby enacted, that every certificate shall give authority to the person to whom the same is granted Local extent of power given by certificate. throughout the Presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned:

VII. . And it is hereby enacted, that a person certified as Government and Dividends, Not aforesaid, may be empowered to receive interest on Government Notes and Dividends, or on Shares of any Bank or parts thereof, and to negotiate such Securities. He may be also empowered to receive a share of such interest or dividends or to negotiate a share of such Securities. But these powers shall only arise by express words in the certificate.

VIII.

ACT No. XX. OF 1841.

Payments under certificate void by reason of previous certificate

VIII. And it is hereby enacted, that where a certificate shall have been granted in cases in which such certificate would be valid, but for the previous grant of a certificate, all payments made to the person holding the later certificate in ignorance of the grant of the previous certificate shall be held good against claims under such previous certificate.

Certificate after previous grant of Probate or Letters void.

IX. And it is hereby enacted, with regard to the property of deceased Hindoos, Mahomedans and other persons not usually designated by the term British Subjects, that no certificate in respect of any such property shall be valid, if made after a Probate or Letters of Administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the Probate or Letters of Administration.

Bonâ fide payments protected.

X. And it is hereby provided, that where a certificate shall have been granted in cases in which such certificate would be valid, but for a Probate or Letters of Administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the Probate or Letters of Administration, shall be held good against claims under the Probate or Letters of Administration so previously granted.

Probate or Letters after previous grant of certificate.

XI. And it is hereby enacted, that no Probate or Letters of Administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such Probate

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or Letters of Administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the Court granting such certificate.

XII. And it is hereby provided, that where Probate or Letters of Administration may have been granted, in cases in which such Probate or Letters of Administration would be valid, but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate shall be held good against claims under such previous certificate.

Boná fide payments protected.

XIII. And whereas under Act No. XIX. of 1841, Curators may be invested with certain powers which are conferred on persons obtaining certificates under this Act, and which belong to Executors and Administrators, it is hereby enacted that Curators appointed under the said Act shall not exercise any powers which, but for that Act, would lawfully belong to such persons obtaining certificates, Executors or Administrators, where a certificate, Probate or Letters of Administration has been actually obtained ; but all persons who may have paid debts or rents to a Curator authorized by a Judge to receive the same shall be indemnified, and the Curator shall be responsible for the payment of the same to the person who has obtained a certificate, the Executor, or Administrator, as the case may be.

Curators prohibited from exercising certain powers.

XIV. And it is hereby declared and enacted, that all Probates and Letters of Administration granted by any of Her Majesty's Courts in cases in which any assets belonging to deceased persons were, at the time of their deaths, within the

Effect of Probates and Letters granted to Representatives of Hindoos and others.

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local jurisdiction of the Court granting the Probate or Letters of Administrations, shall have the effect of Probate and Letters of Administration granted in respect of the property of British Subjects but for the purpose of the recovery of debts only, and the security of debtors paying the same; except so far as is in this Act provided.

Act not to extend
property of British
subjects.

XV. And it is hereby provided that nothing in this Act contained shall be held to extend to the property of any person usually designated as a British Subject.

ACT No. XXI. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 6th of September, 1841.*

An Act for the better Prevention of Local Nuisances.

I. **I**T is hereby enacted, that it shall be lawful for any Magistrate, when the public benefit and comfort are in question, to cause unlawful obstructions and nuisances to be removed from thoroughfares and public places, and to suppress or cause to be removed to a different place, trades or occupations injurious to the health or comfort of the community, and to prevent such construction of buildings and such disposal of combustible substances as may appear to him likely to occasion conflagration, and to cause the removal of buildings in such state of weakness, as, by the probability of their falling, may appear to him to expose individuals to danger.

II. And it is hereby enacted, that, in exercising the authority conferred by the above Section, the Magistrate shall after holding such enquiry as may satisfy him of the necessity of proceeding under this Act, issue an injunction, which, if practicable, shall be served personally on the parties concerned ; but
if

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if such service shall be impracticable or very inconvenient, the injunction shall be notified by oral proclamation and a written notice thereof shall be set up at such place or places as may be best adapted for conveying information to the parties concerned. And in case such injunction be not obeyed, the Magistrate may compel observance thereof by force, and punish disobedience by fine not exceeding 200 Rupees, or by imprisonment without labor for any period not exceeding one month, and if the Magistrate finds it necessary to incur expence in removing noxious or dangerous articles or buildings, it shall be lawful for him to sell the same or their materials by public auction in order to defray the charge, delivering any surplus that may remain to the owner. And it shall be lawful for the Magistrate to compel, under the like penalty, the owners of tanks or wells adjacent to any public thoroughfare to fence the same in such manner as to prevent danger to the public arising therefrom.

III. And it is hereby provided and declared, that it shall be lawful for any person affected by such injunction or written notice as is above described, if he shall object thereto, to claim, by written petition to be presented to the Magistrate within the period of ten days if reasonably practicable, if not, within the shortest reasonable further time from the receipt of such injunction or the publication of such notice, that a Jury or Panchayet may be appointed to try and decide the question; and the Magistrate shall, on receiving such petition, pass order thereupon for the appointment of a Jury or Panchayet, which shall consist of not less than five persons, whereof the President and one-half of the other Members shall be nominated by the Magistrate from the residents in the vicinity, and the remaining Members shall be nominated by the party petitioning. And the Magistrate shall suspend the further execution of the injunction or order pending such enquiry, and be guided by the decision of the said Jury which shall be according to the opinion of the majority. Provided however that if the petitioner shall by neglect or in any other way

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way prevent the appointment of such Jury or Panchayet, or if, from any cause the Jury so appointed shall not decide and report within a reasonable time to be fixed in the order for their appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate, and if from any of the above causes no decision be made by a Jury or Panchayet, the Magistrate's order shall take effect as if not opposed.

IV. And it is hereby provided, that all the proceedings of Magistrates under the authority of this Act shall be subject to the like appeal as other orders of Magistrates according to the Regulations of the respective Presidencies.

V. And it is hereby enacted, that this Act shall not be applicable within the local limits of Her Majesty's Courts of Justice.

ACT No. XXII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 11th October, 1841.*

*For amending the Law with respect to rates for Municipal purposes within the
Town of Madras.*

I. **W**HEREAS it is expedient to specify the particular purposes to which rates assessed on houses, buildings and grounds in Madras shall be applied; and to abolish the practice which has hitherto prevailed, of levying five per cent. on the annual value of all houses, buildings and grounds, without reference to the amount necessary for accomplishing the purposes of the rates; such per centage being inadequate for the purposes to which the rates have hitherto been deemed applicable. And whereas it is expedient to make the per centage leviable by quarterly or other convenient rates on the annual value of property to depend entirely on the expenditure necessary for accomplishing, in an efficient manner, the purposes to which the rates shall henceforth be applicable, and providing for all incidental expences and casual deficiencies or defaults. And whereas it is expedient to subject the collection and administration of the funds raised for Municipal purposes in the various districts of
the

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the Town to the management of the rate-payers themselves within such districts respectively, whenever they are desirous of undertaking the same, and are willing to enter into proper arrangements for the purpose. And whereas it is expedient to modify the provisions of the Statute 33, Geo. 3, Chap. 52, in regard to assessments for the Town of Madras in order for the better collection of the same, reserving all the authority of such Statute in matters not inconsistent with this Act;

It is hereby enacted, that the assessments which by the Statute 33, Geo. 3, Chap. 52, are authorized to be made for the Town of Madras, shall be applicable to the following purposes only, viz. lighting and watering the roads and streets, and cleansing and repairing the same and the drains of the said Town.

II. And it is hereby enacted, that the assessment and rates made under the authority of the said Statute shall be sufficient for accomplishing, in an efficient manner, the purposes mentioned in the last Section, for discharging all incidental expences, and for making up deficiencies and defaults of every kind whatsoever. Provided always, that no rate shall be made exceeding the amount of five per cent on the assessed value of property without the sanction of the Governor in Council of Fort Saint George in Madras.

III. And it is hereby enacted, for the encouragement of the control and supervision of the assessment and collection of the rates and the management thereof within particular divisions being undertaken by the rate-payers themselves, the Justices at their Quarter Sessions shall publish quarterly or as required by the Local Government the particulars of all sums laid out, and of all the expences of collection and deficiencies during the preceding quarter within three or more divisions of the Town to be indicated by the Governor in
Council

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Council of Fort Saint George in Madras before this Act shall be allowed to come into operation or such other divisions as the Governor in Council of Fort Saint George in Madras may from time to time direct, so long as the assessment, collection or management of the rates for such divisions shall remain under the jurisdiction of the Justices.

IV. And it is hereby enacted, whenever two-thirds in number and value of the rate-payers of any of such respective divisions shall apply to the Governor in Council of Fort St. George in Madras, to undertake themselves the assessment, collection and management of the rates of such division, or any or either of these trusts, it shall be lawful for the Governor of Fort St. George in Madras to authorise the same accordingly, at his discretion ; provided always that such majority of rate-payers shall present a scheme which shall obtain his full approbation for the safe and efficient execution of the trusts, the transfer of which from the present authorities is sought for. Provided always that in any such arrangement, the amount to be levied in any particular division shall not be considered as necessarily limited by the amount expended within such division, but shall be adjusted by the Governor in Council of Fort St. George in Madras upon reference to all local circumstances.

V. And it is hereby enacted, that for the better assessment and collection of rates under this Act, it shall be lawful for the Governor in Council of Fort St. George in Madras, to appoint such Assessor or Assessors, Collector or Collectors, and to make such union of the offices of Assessor and Collector, and to prescribe such rules and take such securities for the due execution of this Act by the person or persons employed in assessments and collections and in the management of the rates collected as he shall deem expedient.

VI.

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VI. And it is hereby enacted, that it shall not be necessary in any assessment rate or warrant of distress under this Act to specify the names of the owners or occupers of houses, buildings and grounds ; but it shall be sufficient if every property rated be identified, and in the case of houses numbered in any street, that the name of the street and number of the house rated be particularly specified.

VII. And it is hereby enacted, that the Goods and Chattels of the owner of any property rated shall be seizable any where (except where property is concealed as hereinafter mentioned) for deficiency in the payment of rates. And all property which shall be found upon any premises rated, shall be seizable for any arrears which may be due for a period of one year immediately preceding such seizure. And in the case of the seizure of the property of a tenant under such circumstances, he may deduct the amount of the levy from the next payment of his rent.

VIII. And it is hereby enacted, that where there is ground to suspect that property liable to distress under this Act is concealed in any zenana, the Officer charged with the execution of the warrant shall make a special report to the Justice granting the same, who shall thereupon follow, as closely as is practicable, the rules for the seizure of property in like cases adopted by Her Majesty's Supreme Court of the Presidency.

IX. And it is hereby enacted, that it shall be lawful for any one Justice of the Peace for the Town of Madras to issue a Warrant of Distress for the recovery of the arrears of Assessment under this Act, or under the Statute 33, Geo. 3, Ch. 52, and every such Warrant shall have the same force and effect as if it were under the hands and seals of two such Justices.

ACT No. XXIII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 11th October, 1841.*

*An Act for prohibiting the importation of Rum and Rum Shrub into the Pre-
sidency of Fort St. George in Madras.*

I. **I**T is hereby enacted, that if any person after the passing of this Act, lands or attempts to land, or shall introduce by land in any part of the Territories subject to the Government of the Presidency of Fort St. George in Madras, any Rum or Rum Shrub, which is the produce of any foreign Country, or of any British possession into which foreign Sugar or Rum can be legally imported; such Rum or Rum Shrub shall be seized by the Collector of the Customs, or by any other Officer authorized to seize and detain Contraband Goods, and shall be brought to confiscation according to the Rules in force for confiscating such Goods, unless the District in which such Rum or Rum Shrub is landed, or in which an attempt has been made to land such Rum or Rum Shrub, be a District in which the Governor in Council has authorized the importation of such Rum or Rum Shrub, and it shall be lawful for the Governor in Council to authorize the importation of such Rum and Rum Shrub into any District of the Territories aforesaid by an Order in the Official Gazette.

II.

ACT No. XXIII, OF 1841.

II. And it is hereby enacted, that if any owner of Rum or Rum Shrub, the produce of the said Territories, or the duly authorized Agent of such Owner, be desirous to obtain a Certificate of origin from the Collector or Assistant Collector of the Land or Customs Revenue of any District within the said Territories, or from any other Officer appointed by the Governor in Council to give such Certificates, such Owner or Agent shall, in the presence of the Officer from whom he desires to obtain such Certificate, make and subscribe a Declaration in the Form contained in the Schedule hereunto annexed marked A, and to the said Declaration shall be appended a Certificate to its verity from any Government Officer who may be attached to the Distillery where such Rum or Rum Shrub is declared to have been manufactured in the form prescribed in the said Schedule A.

III. And it is hereby enacted, that if the District be one into which the Governor in Council has not, by any Order, authorized the importation of Foreign Sugar or Rum, or of Sugar or Rum the growth or produce of any British Possession into which Foreign Sugar or Rum can be legally imported, then the Officer before whom such a Declaration as is aforesaid shall have been made, shall grant under his hand and seal to the Declarant a Certificate in the form contained in the Schedule hereunto annexed marked B.

IV. And it is hereby enacted, that every person who intends to ship Rum or Rum Shrub from any place within the said Territories for any part of the United Kingdom, shall be entitled to produce to the Collector of Customs at that place, or to any other Officer who may have been appointed by the Governments of the respective Presidencies to act on that behalf in place of the Collector of Customs a Certificate, such as is above described, and also in the presence of the Officer to whom he has so produced such
Certificate

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Certificate to make and subscribe a Declaration in the form contained in the Schedule hereunto annexed marked C:

V. And it is hereby enacted, that the Officer to whom such a Certificate shall have been so produced, and before whom a Declaration in the last mentioned form shall have been so made and subscribed, shall, unless he see cause to deem such Declaration fraudulent and untrue, grant to the person who has made the last mentioned Declaration a Certificate in the form contained in the Schedule hereunto annexed marked D.

VI. And it is hereby enacted, that the Owner of Rum or Rum Shrub intended for exportation under this Act, or the duly authorized Agent of such Owner shall not be entitled to any of the Certificates described in this Act unless such Rum or Rum Shrub shall be the produce of a Distillery worked according to law in the European method under License from the Board or other authority vested with the management of the Revenue derived from the Abkarry or Tax on Spirits.

VII. And it is hereby enacted, that the Rum and Rum Shrub manufactured for exportation to the United Kingdom under this Act at any Licensed Distillery shall be manufactured pure without admixture of Spirits made from Rice, Grains, or any other substance or substances not being the produce of the Sugar Cane or of the Date or Palm-tree, and shall be so declared and verified at the time of application for a Certificate of Origin according to the form of Schedule A.

VIII. And it is hereby enacted, that if any Rum or Rum Shrub that may be brought to any Custom House for exportation under this Act shall be found to be adulterated or mixed contrary to the above prohibition, the same with
the

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the casks or materials in which it is contained shall be seized and confiscated, and the party or parties upon whose Declaration Certificate of manufacture free from adulteration or mixture may have been granted for the admission of such Rum or Rum Shrub to the privilege of exportation under this Act, as well as the party or parties who may have verified such Declaration, shall be proceeded against for the false and fraudulent Declaration as hereinunder prescribed.

IX. And it is hereby enacted, that any person who shall in making any Declaration under the authority of this Act, knowingly affirm an untruth, shall on conviction thereof before such Court as would be competent to try such person for perjury, be punished as in cases of perjury; and every person procuring another person to affirm such untruth shall be liable to be punished as in cases of subornation of perjury, and any Officer of Government subscribing an attestation to the verity of such Declaration knowing the same to be untrue, shall be subject to a like penalty as the false Declarant, besides dismissal from the employment of Government.

X. And it is hereby provided, that notwithstanding any thing in this Act contained, no person intending to manufacture Rum or Rum Shrub, within the Presidency of Madras shall establish a Distillery for such purpose without making application for a license in manner directed by Regulation I. of 1820 of the Madras Code; and every person manufacturing Rum or Rum Shrub within the Madras Presidency, without having first obtained such license, shall be liable to the penalties provided in that Regulation.

SCHEDULE A.

I, A. B., solemnly declare that all the Rum or Shrub hereinunder described is the produce of the Licensed Distillery named ——— in the
District

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District of _____, and that the said Rum or Rum Shrub is the produce of the Sugar Cane, Date, or Palm-tree, and wholly free from any admixture of Spirits manufactured from Rice, Grains, or any other substance whatever.

(Signed) A. B.

The ____ day of ____ 18__.

* I, B. B., Government Officer in charge on the part of Government of the ____ Distillery, do hereby certify that the above is a true and correct Declaration.

B. B.,

Govt. Officer attached to the
____ Distillery.

Description of the _____ to which the above Declaration relates.

Quantity in Gallons.	Quality.	Average strength by Skyes's Hydrometer.	Number and denomination of Packages.	Marks on Packages.

(Signed) A. B.

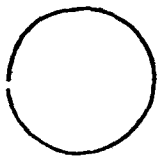
The ____ day of ____ 18__.

Collector's number ____.

Collector's date ____ of ____ 18__.

(Signed) Y. Z., Collector.

Seal of the Collector.



SCHEDULE

* This Declaration must be drawn out before the Rum leaves the Distillery in order that the attestation of the Government Officer may be attached.

ACT No. XXIII OF 1841.

SCHEDULE B.

I, C. D., Collector of Land Revenue (or Collector of Custom Revenue, or being an Officer appointed by the Governor in Council to act in this behalf) for the District of _____ do hereby in conformity with the provisions of Act _____ grant this Certificate under my hand and seal that the Rum or Rum Shrub described in the Declaration hereunto annexed, which is sealed with the seal of this office, numbered _____ of _____ 18 _____, dated the _____ of _____ 18 _____ and signed by _____ Manager or Owner of the Licensed Distillery called _____ is the produce of the District of _____ and is declared to be free from any admixture of Spirits manufactured from other substance than the Sugar Cane, Date or Palm-tree, and that the importation of Foreign Sugar and Rum and of Sugar and Rum the growth or produce of any British possessions into which Foreign Sugar and Rum can be legally imported, is prohibited in the said District of _____.

L. S.

(Signed) C. D.

This _____ day of _____ 18 _____.

SCHEDULE C.

I, E. F., Shipper of the Rum or Rum Shrub hereinunder described, solemnly declare, that all the Rum or Rum Shrub hereinunder described, is, to the best of my knowledge and belief, the same Rum or Rum Shrub to which the Certificate now produced by me relates. (Signed) E. F.

Description of _____ to which this Declaration relates.

Quantity in Gallons.	Quality.	Average strength by Sykes's Hydrometer.	Number and denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

(Signed) E. F.

The _____ day of _____ 18 _____.

SCHEDULE

ACT No. XXIII. OF 1841.

SCHEDULE D.

I, R. W., Collector of Customs, (or being an Officer appointed by the Governor in Council to act in this behalf) for the Port of _____, certify under my hand and seal, that there has been produced to me by E. F., the Shipper of the Rum or Rum Shrub hereinunder described, a Certificate under the hand and seal of C. D., Collector of Land Revenue, (or Collector of Custom Revenue, or being an Officer appointed by the Governor in Council to act in this behalf) for the District of _____, in the Territories forming part of the Presidency of Fort St. George, which Certificate certifies that the said Rum or Rum Shrub is of the produce of the said District, and is declared to be free from any admixture of Spirits manufactured from other substance than the Sugar Cane, Date or Palm-tree, and that the importation of foreign Sugar and Rum, or Sugar and Rum the growth or produce of any British possession into which foreign Sugar and Rum can be legally imported, is prohibited in the said District.

L. S.

(Signed)

R. W.,

Collector of Customs.

The _____ day of _____ 18_____.

Description of the _____ to which the Certificate relates.

Quantity in Gallons.	Quality.	Average Strength by Sykes's Hydrometer.	Number and denomination of Packages.	Name of Ship or Vessel.	Name of Master of Ship or Vessel.

(Signed)

R. W.,

Collector of Customs.

ACT No. XXIV. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 18th October, 1841.

An Act for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the Effects of Testators; Illusory Appointments; the transfer of Estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons, and other like matters.

I. **I**T is hereby enacted, that the Statute XI. George IV. and 1 William IV. Ch. 40, entitled "an Act for making better provision for the disposal of the undisposed of residues of the Effects of Testators," shall be extended to the Territories of the East India Company as far as it is applicable to the same. Provided that this Act shall take effect from the first day of January next, which day is substituted for the first day of September mentioned in the Statute.

II. And it is hereby enacted, that the Statute XI. George IV. and 1 William IV. Ch. 46, entitled "an Act to alter and amend the Law relating to
Illusory

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Illusory Appointments," and the Statute XI. George IV. and 1 William IV. Ch. 65, entitled "an Act for consolidating and amending the Law relating to property belonging to infants, feme coverts, idiots, lunatics and persons of unsound mind," shall, from the first day of January next, be extended to the Territories of the East India Company, as far it is applicable to the same.

III. And it is hereby enacted, that the Statute XI. George IV. and 1 William IV. Ch. 60, entitled "an Act for amending the Laws respecting conveyances and transfers of Estates and Funds vested in Trustees and Mortgagees, and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases," except so much thereof as provides that it shall not extend to cases of partition, shall, from the first day of January next, be extended to the territories of the East India Company, as far as it is applicable to the same, and all provisions contained in the last mentioned Statute relating to the Lord Chancellor of Great Britain, intrusted as therein is mentioned, or to Courts of Chancery, or their Decrees, shall be applicable to Her Majesty's Supreme Courts of the respective Presidencies. And the indemnity and discharge mentioned in the last Section of the same Act shall be applicable to the East India Company, and all Corporate Societies established within the territories of the East India Company and their Officers and Servants.

IV. And whereas it is expedient to adopt the amendments of the English Law touching the delay of action, suits, or other proceedings, by reason of the parol demurring; and touching conveyances made by Infants under order of Courts; it is hereby enacted, that Sections 10 and 11 of the XIth Geo. IV. and 1 William IV. Ch. 47, entitled "an Act for consolidating and amending " the Laws for facilitating the payment of debts out of real Estate," shall, from
the

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the first day of January next, be extended to the Territories of the East India Company, as far as it is applicable in the same.

V. And it is hereby provided, that this Act shall not be construed to affect any case which would not have been governed by English Law as administered by Her Majesty's Supreme Courts previous to the passing thereof, or any proceedings at Law or in Equity commenced before the first day of January next.

ACT No. XXV. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 18th October, 1841.*

*An Act for amending the Law concerning imprisonment for contempts
of decrees or orders made by Courts of Equity.*

I. **IT** is hereby enacted, that when any person shall have been directed by any Decree or Order in Equity of Her Majesty's Supreme Courts to execute any deed or instrument, or make a surrender or transfer, or to levy a fine, and shall have refused or neglected to execute, make or transfer or levy the same, and shall have been committed to prison under process for such contempt or being confined in prison for any other cause shall have been charged with or detained under process for such contempt and shall remain in such prison, the Court may upon motion or petition and upon affidavit that such person has after the expiration of two calendar months from the time of his being committed under or charged with or detained under such process again refused to execute such deed or instrument, or make such surrender or transfer or levy such fine, order or appoint, the Master or Registrar of the said Courts to execute such deed or other instrument, or to make such surrender or transfer for and in the name
of

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of person, and to levy such fine in his name and to do all acts necessary to give validity and operation to such fine, and to lead or declare the uses thereof, and the execution of the said deed or other instrument, and the surrender or transfer made by the said Master or Registrar, and the fine levied by him, shall in all respects have the same force and validity as if the same had been executed, or made or levied by the party himself, and within ten days after the execution or making of any such deed or other instrument, or surrender or transfer, or levying such fine, notice thereof shall be given by the adverse Solicitor to the party in whose name the same is executed or made, and such party as soon as the deed or other instrument or surrender, transfer or fine, shall be executed, made or levied, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this Act applicable to his case, and the Court shall make such order as shall be just touching the payment of the cost of or attending any such deed, surrender, instrument, transfer or fine.

II. And it is hereby enacted, that where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in Court or elsewhere, as by any order in Equity of Her Majesty's Supreme Courts may be directed, books, papers or any other articles or things, the Sheriff under any writ of sequestration shall have the same power, to seize and take such books, papers, writings or other articles, or things being in the custody or power of the person against whom the sequestration issues, as they would have over his own property, and thereupon such articles or things so seized and taken shall be dealt with by the Court as shall be just, and after such seizure it shall be lawful for the Court upon the application of the prisoner, or any other person in the cause or matter

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matter to make such order for the discharge of the prisoner upon such terms as to the Court shall seem proper.

III And it is hereby enacted, that the discharge of any prisoner adjudicated upon under the authority of an Act passed in the 9th G. 4 C. 73, intituled "an Act to provide for the Relief of Insolvent Debtors in the East Indies until the 1st day of March 1833," last continued by an Act passed in the 3 and 4 Vic. C. 80, shall and may extend to all process in Equity issuing from Her Majesty's Supreme Courts for any contempt of such Court for non-payment of money, or of costs, charges of expences in any such Court, and that in such case the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same and every discharge so adjudicated as aforesaid as to any debt or damages of any creditor of such prisoner shall be deemed to extend, also to all costs incurred by such creditor before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoners for the purpose of the recovery of the same, and that all persons as to whose demands, for any such costs, money, or expences, any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said last mentioned Acts, subject, nevertheless, to such ascertaining of the amount of the said demands as may be had by taxation, or otherwise, and to such examination thereof as is in the said last mentioned Acts, provided in respect of all claim to a dividend of such Insolvent's Estate and Effects.

IV. And be it further enacted, that in all cases of contempt, where any person or persons are, or is, or shall, at any time hereafter be in prison
under

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under or by reason of any commitment or attachment in Equity directed by or issued out of Her Majesty's Supreme Courts, such Court shall (upon the application of the person or persons against whom such commitment or attachment hath been directed or issued,) have the power if it shall so think fit, to discharge such person or persons from their, his, or her contempt, except as to the costs thereof, for which costs they, he, or she shall remain in custody, and such costs shall be deemed within the provisions of the last preceding Section of this Act—and they, he, or she shall be discharged therefrom, and from the process of contempts in like manner as in the last preceding Section of this Act provided for in cases of process of contempt for non-payment of money or costs. Provided that this Act shall not weaken any of the other powers by this Act given, and that nothing herein contained shall alter or affect the operation of the said Acts for the Relief of Insolvent Debtors.

ACT No. XXVI. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 18th October, 1841.

An Act for extending in cases governed by English Law certain provisions of the Statute 3d and 4th William IV. Ch. XLII, entitled "An Act for the further amendment of the Law and the better advancement of Justice."

I. **W**HEREAS there is no remedy provided in cases governed by English Law for injuries to the Real Estate of any person deceased, committed in his life time, nor for certain wrongs done by a person deceased in his life time to another in respect of his property, real or personal; for remedy thereof it is hereby enacted, that an Action of Trespass or Trespass on the case, as the case may be, may be maintained by the Executors or Administrators of any person deceased for any injury to the Real Estate of such person, committed in his life time, for which an action might have been maintained by such person, so as such injury shall have been committed within six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages when recovered,

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recovered, shall be part of the personal Estate of such person; and further that an Action of Trespass or Trespass on the case, as the case may be may be maintained against the Executors or Administrators of any person deceased for any wrong committed by him in his life time to another in respect of his property, real or personal, so as such jury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such Executors or Administrators shall have taken upon themselves the Administration of the Estate and Effects of such person; and the damages to be recovered in such action shall be payable in like order of Administration as the simple contract debts of such person.

II. And it is hereby enacted, that no wager of Law shall be hereafter allowed.

III. And it is hereby enacted, that an action of debt on simple contract shall be maintainable in any of Her Majesty's Supreme Courts against any Executor or Administrator.

IV. And it is hereby enacted, that it shall be lawful for the Defendant in all personal actions (except actions for Assault and Battery, False Imprisonment, Libel, Slander, Malicious Arrest or Prosecution, Criminal Conversations or Debauching of the Plaintiff's Daughter or Servant,) by leave of any of Her Majesty's Supreme Courts where such action is pending, or a Judge of any of the said Courts, to pay into Court a sum of money by way of Compensation or Amends, in such manner and under such regulations as to the payment of costs and the form of pleading as the said Judges or such Courts respectively shall by any rules or orders by them to be from time to time made, order and direct.

V.

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V. And it is hereby enacted, that it shall be lawful for the parties in any action or information, after issue joined, by consent and by order of any of the Judges of the said Courts, to state the facts of the case, in the form of a special case, for the opinion of the Court, and to agree that a judgment shall be entered for the Plaintiff or Defendant, by confession or of nolle prosequere, immediately after the decision of the case, or otherwise as the Court may think fit; and judgment shall be entered accordingly.

VI. And it is hereby enacted, that the name of every witness objected to as incompetent on the ground that the judgment in the action would be admissible in evidence for or against him shall at the trial be indorsed on the Record or Document on which the trial shall be had, together with the name of the party on whose behalf he was examined by some Officer of the Court, at the request of either party, and shall be afterwards entered on the record of the judgment; and such indorsement or entry shall be sufficient evidence that such witness was examined in any subsequent proceeding in which the judgment shall be offered in evidence.

VII. And it is hereby enacted, that every such Court as aforesaid on the trial of any issue, or on any inquisition of damages, may, if they shall think fit, give damages in the nature of interest, over and above the value of the goods at the time of the conversion or seizure, in all Actions of Trover or Trespass de bonis asportatis, and over and above the money recoverable in all actions on Policies of Assurance made after the passing of this Act.

VIII. And it is hereby enacted, in cases which would be governed by English Law, that it shall be lawful for the Executors or Administrators of any Lessor or Landlord to distrain upon the Lands demised for any term, or at will, for the arrearages of rent due to such Lessor or Landlord in his life
time,

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time, in like manner as such Lessor or Landlord might have done in his life time.

IX. And it is hereby enacted, that such arrearages may be distrained for after the end or determination of such Term or Lease at will in the same manner as if such Term or Lease had not been ended or determined ; provided that such distress be made within the space of six calendar months after the determination of such Term or Lease, and during the continuance of the possession of the Tenant from whom such arrears become due : provided also, that all and every the powers and provisions of Law relating to distresses for rent shall be applicable to the distresses so made as aforesaid.

ACT No. XXVII. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 18th October 1841.*

An Act for appropriating the unclaimed Dividends on Insolvent Estates.

I. **W**HEREAS pursuant to the Orders of the Courts for the Relief of Insolvent Debtors at the several Presidencies, divers sums on account of unclaimed Dividends on Insolvent Estates have from time to time been paid over by the Assignees of such Insolvent Estates into the hands of the Accountant General and Sub-Treasurer of the East India Company at such several Presidencies with the privity of the Accountant General of the said Insolvent Courts to the credit of the persons named in the Schedules as Creditors of such Insolvents respectively ;—and whereas it is expedient that in the event of no claim being established to such unclaimed Dividends or any part thereof, within a reasonable time, such Dividends should be distributed among such of the Creditors of such Insolvent Estates as shall have established their claims against such Estates respectively ;—

It is therefore enacted, that it shall be lawful for the said Courts of Insolvent Debtors respectively in the event of no claim being established to such
Dividends

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Dividends or any part thereof, within six years after any Dividend shall have been so paid over, as aforesaid, to order the same to be repaid to such Assignees, to be by them distributed among such of the Creditors of such Insolvent Estates as shall have established their claims against such Estates respectively, and to order such claims to be expunged from such Schedules. Provided that this Act shall not affect the right of any party to be paid such Dividends out of any future Assets, which may come to the hands of the Assignees, together with any future Dividends which may be declared on such Insolvent Estates respectively in the event of any such claim being afterwards established.

II. And it is hereby enacted, that no such unclaimed Dividend shall at any time be distributed under this Act unless a Statement of such unclaimed Dividends be previously published in manner following: One year at least before making any such division as aforesaid a Statement shall be published three times in the English language, and also in one or more native languages in the Official Gazettes of the respective Presidencies, which Statement shall contain the names and descriptions as contained in the Schedules of all parties in respect of whose claims Dividends are reserved, together with the amount of such claims respectively, and shall specify whether any former Dividend or Dividends have been paid in respect thereof, and whether any proof shall have at any time been made of the debt whereby any Dividend may have accrued. Provided always that this Act shall not authorize the distribution of any such Dividend except where no person shall at any time have substantiated any claim to the debt in respect of which such Dividend may have become due.

III. And it is hereby further enacted, that in case it shall appear that any Insolvent is indebted to any Domestic Servants for Wages, it shall be
lawful

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lawful for such Courts at or before the time of declaring a Dividend to order the amount due for such Wages, but not exceeding in the whole the amount of six months' Wages to be paid to such Servants out of the Estate of such Insolvents.

IV. And be it enacted, that this Act shall not take effect until the first day of January 1843.

ACT No. XXVIII. OF 1841.

Passed by the Right Hon'ble the Governor General of India in Council on the 15th November, 1841.

An Act for extending Act No. XXIII. of 1839, to Camp Followers.

I. **I**T is hereby enacted, that in cases in which an offender, being a Soldier, is punishable under Act No. XXIII. of 1839—Any offender amenable to any Articles of War for the East India Company's Native Forces, not being a Commissioned Officer, shall be punishable according to that Act, as well as otherwise according to law; and Act No. II. of 1840, shall be applicable to offenders imprisoned under this Act.

ACT No. XXIX. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 13th December, 1841.*

*An Act for amending such parts of the Bengal and Madras Codes as concern
the dismissal of Suits and Appeals for neglecting to proceed in the same.*

I. **I**T is hereby enacted, that if a Plaintiff or Appellant in any Court shall, at any time, neglect to proceed in his Suit or Appeal for six weeks, the Suit or Appeal shall be dismissed ; and it shall not be necessary to give the Plaintiff or Appellant any notice previous to dismissing his Suit or Appeal. The Suit or Appeal shall be dismissed as of course after the expiration of six weeks without any proceeding on the part of the Court, or of the Defendant, or otherwise, or assignment of any reasons, unless the Plaintiff or Appellant, or his representative in case of his death, upon special application, shall have previously satisfied the Court of the propriety of allowing further time. The Court shall record upon the proceedings the reasons at large for allowing further time in all cases in which further time may be allowed, but it shall not be necessary to specify the reasons for refusing any application for further time.

II. And it is hereby enacted, that in all cases in which a Suit or Appeal is dismissed under the preceding Section the Court shall award to the
Defendant

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Defendant or Respondent the costs he may have incurred in the Suit or Appeal. But such dismissal shall be no impediment to the institution of a new Suit or Appeal, where the party is not precluded by lapse of time, or period of Appeal, or otherwise than by the mere circumstances of having instituted the Suit or Appeal dismissed and of such dismissal, and such dismissed Suit or Appeal shall not prevent lapse of time under the Law of Limitations being incurred.

III. And it is hereby enacted, that Clause 2, Section 27, Regulation XXIII of 1814, of the Bengal Code, and Clause 2, Section 26, Regulation VI. of 1816, of the Madras Code, are repealed, and no appeal shall lie against the decision passed in accordance with the provisions of the preceding Clauses of this Act, other than a summary appeal on the fact of default.

ACT No. XXX. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 20th December, 1841.*

*An Act for repressing obstructions to Justice in certain Courts of the East
India Company.*

I. **W**HEREAS sufficient provision is not made for repressing obstructions to Justice committed in the Courts of the East India Company ;—It is hereby enacted that all persons whatsoever, whether generally amenable to the Courts of the East India Company or otherwise, using menacing gestures or expressions, or otherwise obstructing Justice in the presence of any Zillah or City Magistrate, Joint Magistrate, or other Officer under a Magistrate empowered to try Criminal cases, or any superior or inferior Court, Civil or Criminal, of the East India Company, shall be liable to be fined by the Authority whose proceedings are obstructed to any amount not exceeding 200 Rupees, or in case such fine be not paid to be imprisoned for any period not exceeding one month. Provided that from the award of punishment in such cases an appeal shall lie, if preferred within one month, to the Authority, Civil or Criminal, appointed by Law to hear appeals in all other cases from the decisions of the Officer by whom the fine was imposed; and provided also that notwithstanding any thing in this Act it shall be lawful to indict any person amenable to Her Majesty's Supreme
Courts

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Courts as for a misdemeanour in any of the cases aforesaid sustainable before this Act, if no proceeding shall have been had against the offender in the Court where the offence was committed, but not otherwise.

II. And it is hereby further enacted, that the Sudder Board of Revenue, the local Commissioners, or other Officers exercising the powers of either of those authorities, the Collectors, or other Officers exercising the powers of Collector, shall be competent to punish any obstruction of the nature aforesaid, by fine to an extent not exceeding 200 Rupees, and in case such fine be not paid by imprisonment in the Civil Jail for a period not exceeding one month. Provided that the orders passed in such cases shall be subject on appeal to the revision and controul of the superior Revenue Authorities, as in all others, and shall, as well as the sentences passed under Section I. of this Act, be carried into effect by the Magistrate, on application being made to that Officer, in the usual mode.

III. And it is hereby enacted, that Section XLII, the further proviso contained in Section LXXIV., Regulation XXIII. 1814; Clauses second and third, Section V., and Section VI. Regulation XII. of 1825 of the Bengal Code, are repealed.

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ACT No. XXXI. OF 1841.

*Passed by the Right Hon'ble the Governor General of India in
Council on the 20th December, 1841.*

*An Act for amending the provisions of the Bengal Code touching Criminal
Appeals, and the revision of Sentences and Orders of Criminal Courts.*

I. **W**HEREAS the provisions of the Bengal Code concerning Criminal Appeals and revision of Sentences and Orders of Criminal Courts required to be amended ;—

It is hereby enacted, that those parts of the Bengal Code which concern the powers and duties of the Criminal Courts in respect to appeals and revision of sentences of a Lower Court by a higher, are repealed.

II. And it is hereby enacted, that from every sentence or order in Criminal trials, within the limitation prescribed by Sections VIII. and IX. Regulation IX. 1793, Section IV. Regulation XVI. 1795, and Sections VIII. and IX. Regulation VI. 1803, or in Judicial proceedings other than Criminal trials passed by an Assistant to a Magistrate, or by a Sudder Ameen, or by a Law Officer, or by any other Officer under a Magistrate empowered to try Criminal cases, there shall be permitted one appeal to the Magistrate,
Joint

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Joint Magistrate or Officer exercising the powers of Magistrate, within one month from the date of such Sentence or Order. And from every Sentence or Order in Criminal trials beyond the limitation prescribed by Sections VIII. and IX. Regulation IX. 1793, Section IV. Regulation XVI. 1795, and Sections VIII. and IX. Regulation VI. 1803, or in judicial proceedings other than Criminal trials passed by a Magistrate, Joint Magistrate, Assistant to a Magistrate vested with special powers, or other Officer empowered to try Criminal cases, there shall be permitted within one month as aforesaid one appeal to the Sessions Judge. And from every Sentence or Order passed in Criminal trial by a Sessions Judge, there shall be permitted within three months one appeal to the Court of Nizamut Adawlut. And except as provided in the next Section of this Act the Sentences or Orders passed upon such appeals shall be final.

III. And it is hereby enacted, that it shall be at all times lawful for the Courts of Nizamut Adawlut to call for the records of any Criminal trials of any Subordinate Court and to pass upon them such orders as may seem fit.

IV. Provided however, and it is hereby enacted, that it shall not be lawful for the Court of Nizamut Adawlut in cases so called for, or for any Criminal Court in Appeals preferred to it, to enhance any punishment awarded, or to punish any person acquitted by the Court below.

V. And it is hereby enacted, that it shall be at all times lawful for a Sessions Judge and for a Magistrate, Joint Magistrate or Officer exercising the powers of Magistrate, to call for and examine the records of any Court immediately subordinate to their respective Courts, for the purpose of satisfying themselves

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themselves as to the regularity of the proceedings of such Subordinate Courts: But it shall not be lawful for any Court under the degree of the Nizamut Adawlut to alter any Sentence or Order of any Subordinate Court, except upon Appeal by parties concerned, duly made according to the provisions of this Act.

VI. And it is hereby enacted, that it shall be competent to a Sessions Judge to refer to the Nizamut Adawlut any trial in which he may consider the sentence he is empowered to pass, inadequate to the guilt of the prisoner, any thing in the existing Regulations to the contrary notwithstanding.

VII. And it is hereby enacted, that nothing in this Act contained shall be held to alter or interfere with the powers and duties of a Superintendent of Police as laid down in Act No. XXIV. of 1837, and other parts of the Bengal Code.