

Bombay Collectors  
Office -

Rare section

Acts for 1860

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TO THE  
**ACTS PASSED BY THE LEGISLATIVE COUNCIL OF INDIA,**  
IN THE YEAR 1860.

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ACT No. I OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 5th January 1860.)

*An Act to empower the Governor-General in Council to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal.*

Preamble. WHEREAS it is expedient to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal ;  
It is enacted as follows :—

I. So much of Section II of Act XIV of 1843 (*for regulating the levy of Customs Duties, and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*) as prescribes the levy of a Duty of two Rupees per maund on the Import of Salt into the said Provinces, and of a further Duty of one Rupee per maund on the transmission thereof to the Eastward of Allahabad, is hereby repealed.

II. It shall be lawful for the Governor-General in Council to order the levy, on and after the 24th day of December 1859, of a Customs Duty not exceeding three Rupees per maund on Salt imported into the North-Western Provinces of the Presidency of Bengal. A further Duty not exceeding one Rupee per maund, to be fixed by order of the Governor-General in Council, shall on and after the said 24th day of December 1859 be leviable on the transmission of Salt to the Eastward of Allahabad.

III. Every

ACT No. I of 1860.

III. Every Collector of Customs and other Officer is hereby indemnified  
Indemnity to Collec- for any thing done on and after the said 24th day of  
tors, &c. December 1859 in collecting or enforcing the Duty imposed  
under the provisions of this Act or by virtue of any order of Government  
heretofore made authorizing the levy of any such Duty ; or in otherwise carrying  
this Act into effect : and no action or other proceeding shall be maintained  
against any such Collector or other Officer in respect of any thing so done.

# ACT No. II OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 15th January 1860.)

*An Act to amend the law relating to the Carriage of Passengers by Sea.*

WHEREAS by Section XCIX of an Act of the Imperial Parliament called  
Preamble. "The Passengers Act 1855," it is enacted that "it shall  
be lawful for the Governor General of India in Council,  
from time to time, by any Act or Acts to be passed for that purpose, to declare  
that this Act or any part thereof shall apply to the carriage of passengers upon  
any voyage, from any Ports or places within the Territories of British India,  
to be specified in such Act or Acts, to any other places whatsoever, to be also  
specified in such Act or Acts:" and it is thereby also enacted that "on the  
passing of such Indian Act or Acts, and whilst the same shall remain in force,  
all such parts of this Act as shall be adopted therein shall apply to and extend  
to the carriage of passengers upon such voyages as in the said Indian Act or  
Acts shall be specified. The provisions of such Indian Act shall be enforced  
in all Her Majesty's possessions in like manner as the provisions of this Act  
may be enforced." And whereas it is expedient to make certain parts of the  
said Act of Parliament applicable to the carriage of Passengers upon the voy-  
ages hereinafter specified : It is enacted as follows :—

I. The provisions contained in Sections II, III, and IV of this Act (being  
Certain provisions of the Statute made applicable. parts of the said Act of Parliament) are declared appli-  
cable to the carriage of Passengers upon the following  
voyages :—

A

Voyages

ACT No. II of 1860.

Voyages from the Ports of Calcutta, Madras, and Bombay, to the Mauritius, under Act XV of 1842. . .

Voyages from the Ports of Calcutta, Madras, and Bombay, to Jamaica, British Guiana, and Trinidad, under Act XXI of 1844.

Voyages from the Ports of Calcutta, Madras, and Bombay, to St. Lucia and Grenada, under Act XXXI of 1855.

• Voyages from Ports in British India, to Ports in the Red Sea or Persian Gulf, under Act XXI of 1858.

II. If the Passengers on any such voyage as is specified in the last preceding Section, shall be taken off from the ship carrying such Passengers, or shall be picked up at Sea from any boat, raft, or otherwise, it shall be lawful, if the Port or place to which they shall be conveyed shall be in any of Her Majesty's Colonial possessions, for the Governor of such Colony, or for any person authorized by him for the purpose, or if in any Foreign country, for Her Majesty's Consular Officer, at such Port or place therein, to defray all or any part of the expenses thereby incurred.

III. If any Passenger of any such Passenger ship as aforesaid shall, without any neglect or default of his own, find himself within any Colonial or Foreign Port or place other than that at which he may have contracted to land, it shall be lawful for the Governor of such Colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at such Foreign Port or place, as the case may be, to forward such Passenger to his intended destination, unless the Master of such ship shall, within forty-eight hours of the arrival of such Passenger, give to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter such Passenger to his original destination, and unless such Master shall accordingly forward or carry him on within that period.

IV. All expenses incurred under the last two preceding Sections or either of them, by or by the authority of such Governor or Consular Officer, as aforesaid, including the cost of maintaining the Passengers until forwarded to their destination, Expenses incurred under the two preceding Sections to be a Crown debt.

ACT No. II of 1860.

destination, and of all necessary beddings, provisions, and stores, shall become a debt to Her Majesty and Her successors from the Owner, Charterer, and Master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts ; and a certificate purporting to be under the hand of any such Governor or Consular Officer (as the case may be) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the hand-writing or of the Official character of such Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred. Provided nevertheless that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received by the Owner, Charterer, or Master of such Passenger ship or any of them, from or on account of the whole number of Passengers who may have embarked in such ship ; which total amount of passage money shall be proved by the defendant if he will have the advantage of this limitation of the debt : but if any such Passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding Section, they shall not be entitled to the return of their passage money, or to any compensation for loss of passage.

Passengers forwarded  
by Governor &c. not en-  
titled to compensation.

ACT No. III OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 16th January 1860).

*An Act to empower Sessions Judges to pass sentence, in certain cases without reference to the Sudder Court.*

WHEREAS it is expedient to empower Sessions Judges in the Presidency of Fort William in Bengal, to pass sentence in certain trials without reference to the Nizamut Adawlut; and whereas it is likewise expedient to remove the restriction now imposed by law upon Sessions Judges in regard to the minimum of punishment which they are competent to inflict in cases of perjury and certain cases of forgery described in Clause 2 Section IX Regulation XVII. 1817 : It is enacted as follows :—

I. Clause 3 Section VI and Clause 3 Section IX Regulation XVII. 1817 of the Bengal Code are hereby repealed; and Section IX of the same Regulation, and Section IV Regulation VI. 1832 of the same Code, are hereby modified.

II. When a person is convicted of the crime of rape, if the circumstances of the case shall not appear to call for a more severe punishment than imprisonment for seven years with labor in irons, the Sessions Judge before whom the trial is held shall himself pass sentence.

III. When



ACT No. III of 1860.

III. When a person is convicted in a trial held under the provisions of Regulation VI. 1832, of a crime declared by a precedent of the Nizamut Adawlut to be a penal offence, if the circumstances of the case shall not appear to call for a more severe punishment than seven years' imprisonment with labor in irons, the Sessions Judge before whom the trial is held shall himself pass sentence. If, however, the crime of which the person has been convicted has not been declared to be a penal offence by a precedent of the Nizamut Adawlut, the Sessions Judge shall not proceed to pass sentence, but shall refer the case for the consideration of the Nizamut Adawlut, stating at length in the proceedings the opinion of the punchayet, assessors, or jury, and his own opinion, as to the crime proved and the nature and extent of the punishment which should be awarded.

IV. When a person is convicted of the crime of perjury or subornation of perjury or of forgery or of procuring forgery, as defined and made punishable by Regulations II. 1807 and XVII. 1817 of the Bengal Code, the Sessions Judge shall pass such sentence on the offender as he may consider adequate to the offence in reference to the particular circumstances of the case ; provided that he shall in no case exceed the limit of the powers vested in him by Clause 2 Section IX of the Regulation last mentioned.

V. If in any case coming under the provisions of this Act, the Sessions Judge shall consider the sentence which he is empowered to pass inadequate to the guilt of the prisoner, he shall refer the case, with his sentiments, for the sentence of the Nizamut Adawlut in conformity to Section VI Act XXXI of 1841, which is hereby declared applicable to such cases.

ACT No. IV of 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 23rd January 1860.)

An Act to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter).

WHEREAS it is expedient to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter); It is enacted as follows:—

Preamble.

I. From and after the passing of this Act so much of the 332nd Section of Act VIII of 1859, as enacts that, "If the appeal lie to the Sudder Court it shall be heard and determined by a Court consisting of three or more Judges of that Court," shall be repealed, and in lieu thereof the following shall form portion of the said Section:—

Appeal to Sudder Court to be heard by two or more Judges.

"If the appeal lie to the Sudder Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court shall consist of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence, and one Judge concur in opinion with the Lower Court as to the facts, the case shall be determined accordingly: If in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point upon which they differ, and the case shall be re-argued upon that question before one or more of the other Judges and shall be determined according to the opinion of the majority of the Judges of the Sudder Court by whom the appeal is heard."

II. From

ACT No. IV of 1860.

II. From and after the passing of this Act the 215th Section of the said Act shall be repealed; and in lieu thereof the following shall be the 215th Section:—

Procedure on receiving application for execution of decree.

“The Court, on receiving any application for execution of a decree containing the particulars above mentioned or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the Register of the suit. If it shall be shown to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.”

III. When under the provisions of Section 385 of the said Act the Act is extended to any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, it shall be lawful for the Government to which the territory is subordinate to declare that the Act shall take effect therein subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension. When the Act is extended by the Local Government to any territory subordinate to such Government and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor General of India in Council shall be requisite.

ACT No. V OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 8th February 1860.)

*An Act to amend Act III of 1857 (relating to trespasses by Cattle).*

WHEREAS, under the provisions of Act III of 1857, fines may be levied from  
the owners of Cattle found trespassing and doing damage,  
or straying in any public place, and all unclaimed Cattle so  
found may be sold after sufficient notice; and whereas it is provided in the said  
Act that the sums received on account of fines and the unclaimed proceeds of  
the sale of unclaimed Cattle shall be applied to the payment of the salaries of  
pound-keepers and other purposes connected with the execution of the Act;  
and whereas the amount of the said sums may be larger than is required  
for the said purposes, and it is expedient to provide for their legal application  
to other purposes; It is enacted as follows:—

I. When the amount of the sums received on account of fines and the  
unclaimed proceeds of the sale of unclaimed Cattle is larger  
than is required for the payment of the salaries allowed  
to pound-keepers and the expenses incurred for the construction and maintenance  
of pounds and other purposes connected with the execution of the said Act, any  
surplus which may remain after making full provision for the said salaries and  
expenses may be applied, under the direction of the local Government, to the  
construction and repair of roads and bridges, and other works of a like nature.

II. In

ACT No. V of 1860.

II. In the territories under the Government of Fort Saint George, it

MADRAS PRESIDENCY.

Procedure in dealing with the offences of forcibly opposing the seizure of Cattle, or rescuing Cattle.

shall be lawful for Police Officers, in dealing according to the provisions of Section XXVII Regulation XI. 1816 of the Madras Code with the offences specified in Section XIII of the said Act, to forward their proceedings with the offenders and witnesses either to the Magistrate or to the Criminal Judge. Magistrates shall have jurisdiction to award punishment under the said Act for such offences within the limits of the powers vested in them by law.

III. In the territories under the Government of Fort Saint George, Heads

MADRAS PRESIDENCY.

Heads of Police &c. not to be deemed Officers having Criminal jurisdiction within the meaning of Section XIV Act III of 1857.

of Police, Police Ameens, and Village Moonsiffs shall not be deemed Officers having Criminal jurisdiction authorized to receive and try charges without reference by the Magistrate within the meaning of Section XIV of the said Act.

IV. Section IV of the said Act shall be read throughout the General

MADRAS PRESIDENCY.

Construction of the words "Heads of Villages" in Section IV Act III of 1857.

Police District of the Presidency of Madras, as if the words "Village Inspectors" were substituted for "Heads of Villages."

Act to be read as part of Act III of 1857.

V. This Act shall be read with and taken as part of Act III of 1857.

ACT No. VI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 23rd February 1860.)

An Act to amend Act XIX of 1847 (Articles of War for the Native Army.)

WHEREAS it is expedient to amend the 78th and 112th Articles of War for the Government of the Native Officers and Soldiers in the Military Services; It is enacted as follows:—

Preamble:  
Powers of Commanding Officers of Native Regiments in punishing certain offences committed by Non-Commissioned Officers and Soldiers and Native Camp-followers.

I. There shall be added to the 78th Article of War for the Native Army the words following (that is to say)—

1. The Commander-in-Chief of the Presidency to which any Regiment belongs may confer the powers specified in this Article on the Commanding Officer for the time being of such Regiment. The Commanding Officer for the time being of such Regiment may summarily try all offences against the Articles of War for the Native Army committed by any person, subject to those Articles (not being a Commissioned Officer), and sentence such offender on conviction, and carry out such sentence without confirmation or any further authority, notwithstanding any provision to the contrary contained in the said Articles of War; provided that such sentence shall not exceed the powers of a District or Garrison Court-Martial.

2. A Commanding Officer holding a trial under this Act shall be deemed a Court-Martial, and the word "Court-Martial" in 64, 66, 67, and 98 of the said Articles of War, so far as such Articles are applicable to persons amenable thereto, shall be deemed to include a Commanding Officer holding such trial.

3. The

ACT No. VI of 1860.

3. The proceedings on such summary trials by a Commanding Officer shall be conducted in the presence of two or more European or Native Commissioned Officers, and shall be recorded in the English language, and the evidence shall be taken on oath or affirmation and interpreted by a competent Interpreter upon solemn affirmation; and when the Commanding Officer shall have recorded the finding and sentence, the proceedings shall be signed by such Commanding Officer and by the Officers in whose presence the trial was held, and shall, without delay, be forwarded to the General Officer Commanding the Division, who is hereby authorized to set aside the trial for reasons based on the merits of the case, but not of a merely technical nature, provided that every sentence so awarded by the Commanding Officer may be carried out without waiting for its approval by the reviewing Officer.

Forfeiture of pay and allowances during confinement under the 112th Article of War.

II. There shall be added to the 112th Article of War for the Native Army the words following (that is to say)—

Provided also that Soldiers subjected to confinement in the Quarter Guard, or Defaulter's Room, or to solitary confinement as aforesaid, under this Article, shall forfeit all claim to pay and allowances during such confinement, and shall receive subsistence only, according to the rates of pay laid down in the Regulations.

# ACT No. VII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th February 1860.)

*An Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability.*

WHEREAS it is expedient to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability: It is enacted  
Preamble. as follows:—

I. So much of Section I of Act XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations, either with or without Limited Liability of the Members thereof*) as provides that nothing in that Act shall authorize any persons to form themselves into a Joint Stock Company or Association with Limited Liability for the purpose of Banking; and so much of Section XCIX of the said Act as provides that no Company established for the purpose of Banking shall be registered under that Act as a Limited Company are hereby repealed, subject to the following Proviso, that no Banking Company, claiming to issue notes in India shall be entitled to Limited Liability in respect of such issue, but shall continue subject to unlimited Liability in respect thereof, and that, if necessary, the assets shall be marshalled for the benefit of the general creditors, and the Shareholders shall be liable for the whole amount of the issue in addition to the sum for which they would be liable as Shareholders of a Limited Company.

II. Every existing Banking Company which shall register itself as a Limited Banking Company, shall at least thirty days previously to obtaining a certificate of Registration with Limited Liability, give notice that it is intended so to register the same, to  
Existing Company, before obtaining registration under this Act, to give notice to Customers.



## ACT No. VII of 1860.

every person and partnership firm who shall have a Banking Account with the Company, and such notice shall be given either by delivering the same to such person or firm, or leaving the same or putting the same into the Post in a registered letter addressed to him or them at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company; and in case the Company shall omit to give any such notice as is hereinbefore required to be given, then as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with Limited Liability shall have no operation.

III. Every Limited Joint Stock Banking Company shall, before it commences business, or if a Banking Company at the time carrying on business with unlimited Liability, before it avails itself of the provisions of this Act, and also on the 1st day of February and 1st day of August in every year during which it carries on business, make a statement in the form contained in the Schedule hereto annexed, or as near thereto as circumstances will admit; such statement shall be in addition to the balance sheet required by the said Act to be made out and filed with the Registrar of Joint Stock Companies: a copy of such statement shall be put up in a conspicuous place in the Registered Office of the Company, and in every branch Office or place where the Banking business of the Company is carried on, and if default is made in due compliance with the provisions of this Section, each Director shall be liable to a penalty not exceeding fifty Rupees for every day during which such default continues, and such penalties shall be recovered in a summary manner.

Limited Banking Company to furnish a statement.

IV. All such estate or interest in moveable and immoveable property, and all such deeds, bonds, obligations, and rights as may belong to, or be vested in, any person or persons in trust for any Banking Company at the date of its Registration under this Act or in trust for any other Company at the date of its Registration under the said Act XIX of 1857, shall immediately on Registration vest in such Banking or other Company, but no Merger shall take place of any estates by reason of their uniting in the Company under this Section, without the express consent of the Company, certified by some instrument under their common seal.

Trust property.

V. Any

ACT No. VII of 1860.

V. Any Banking Company consisting of seven or more persons having a capital of fixed amount and divided into shares also of fixed amount, legally carrying on the business of Banking previously to the passing of this Act, may at any time hereafter, with the assent of a majority of such of its Shareholders as may have been present in person, or in cases where proxies are allowed by the regulations of the Company by proxy at some General Meeting summoned for the purpose, register itself as a Company under this Act, and when so registered all such provisions contained in any Letters Patent or Deed of Settlement constituting or regulating the Company as are inconsistent with the said Act XIX of 1857 or with this Act, shall no longer apply to the Company so registered, but such Registration shall not take away or affect any powers previously enjoyed by such Company of Banking, issuing notes payable on demand, or of doing any other thing.

VI. The Registration under this Act of any Banking Company existing at the time of the passing of this Act, and hereby authorized to be registered, shall not affect or prejudice the liability of such Company to have enforced against it or its right to enforce any debt or obligation incurred, or any contract entered into, by, to, with or on account of such Company, previously to such Registration, and all such debts, obligations, and contracts shall be binding on the Company when so registered, and the other parties thereto, to the same extent as if such Registration had not taken place.

VII. Every person who at or previously to the date of the Registration under this Act of any Banking Company hereby authorized to be registered, may have held shares in such Company shall, in the event of the same being wound-up by the Court or voluntarily, be liable to contribute to the assets of the Company the same amount that he would, if this Act had not been passed, have been liable to pay to the Company, for, or on account of any debt of the Company in pursuance of any action, suit, judgment, or other legal proceeding that might, if this Act had not been passed, have been instituted or enforced against himself or the Company.

VIII. All such actions, suits, and other legal proceedings as may at the time of the Registration under this Act of any Company hereby authorized to be registered have been commenced by or against such Company or the Public Officer thereof, may be continued in  
the

**ACT No. VII of 1860.**

the same manner as if such Registration had not taken place; nevertheless execution shall not issue against the effects of any individual Shareholder in, or member of, such Company upon any judgment, decree, or order obtained against such Company in any action, suit, or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such judgment, decree, or order, an order may be obtained for winding-up the Company in manner directed by the said Act XIX of 1857.

<sup>e</sup>  
Winding-up. IX. All Companies registered under this Act shall be wound-up in the manner directed by the said Act XIX of 1857.

X. Nothing in this Act shall affect Act VI of 1839, (*relating to the Bank of Bengal*), Act III of 1840 (*for the incorporation of a Bank at Bombay*), or Act IX of 1843 (*for the incorporation of a Bank at Madras*), or shall be deemed to apply to the several Banks of Bengal, Madras, and Bombay incorporated by the said Acts respectively.

Act not to apply to Banks of Bengal, Madras, or Bombay.

Construction of Act.

XI. This Act shall be deemed to be incorporated with and to form part of the said Act XIX of 1857.

**SCHEDULE.**

Form of Statement to be published by a Limited Joint Stock Banking Company.

The Liability of the Shareholders is limited.

The capital of the Company is divided into Shares of  
Rupees each.

The number of Shares issued is

Calls to the amount of

per Share have been made, under which the sum of Rupees has been received.

The liabilities of the Company on the first day of January (or July) were—

Rs. As. P.

Notes issued, .....

Deposits not bearing Interest, .....

Deposits bearing Interest, .....

Seven Day and other Bills, .....

Total,

The



ACT No. VIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 12th March 1860.)

*An Act for regulating the establishment and management of Electric Telegraphs in India.*

WHEREAS it is expedient that better provision should be made for regulating the establishment and management of lines of Electric Telegraph in India; It is enacted as follows:—

I. Act XXXIV of 1854. (*for regulating the establishment and management of Electric Telegraphs in India*) is hereby repealed, except as to any act or offence which shall have been done or committed, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation, and except also as to any license for the establishment of a line of Electric Telegraph granted under the said Act. All things done under the authority or in pursuance of the said Act, shall be as valid and effectual as if this Act had not been passed.

II. Within the British territories in India, the Governor-General of India in Council shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided that the Governor-General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

III. Whoever

ACT No. VIII OF 1860.

III. Whoever shall otherwise than under a license duly granted as aforesaid establish, or after revocation of such license maintain, a line of Electric Telegraph within the said territories, shall be liable to a fine not exceeding one thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred Rupees.

Penalties for establishing or maintaining unauthorised Electric Telegraphs.

IV. Whoever shall use a line of Electric Telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty Rupees.

Penalty for using or working such Telegraphs.

V. The Governor-General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said territories.

Government may take possession of Telegraphs established by license.

VI. Any Railway Company, on being required so to do by the Governor-General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway, a line of Electric Telegraph, and shall give every reasonable facility for establishing and using the same.

Government may establish Telegraphs on land of Railway Company.

VII. The Governor-General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

Governor-General in Council to frame rules for the conduct of Government Telegraphs.

VIII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

Government not responsible for loss or damage.

IX. Whoever shall, without permission, enter into the signal room of a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any Officer or servant employed

Penalty for intruding into signal room &c.

ACT No. VIII of 1860.

employed therein, or shall wilfully obstruct or impede any such Officer or servant in the performance of his duty, shall be liable to a fine not exceeding one hundred Rupees.

X. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line or posts or any instrument or apparatus, or by any other means, shall be liable to imprisonment, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for cutting the line.

XI. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall wilfully secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery, or shall wilfully or otherwise than by the Official order of a Secretary to the Government of India, or Government of Madras or Bombay, or Lieutenant-Governor of Bengal or of the North-Western Provinces, or of the Punjab, or Chief Commissioner of Oude, or such other Officers as the Governor-General of India in Council shall authorize to give such order, divulge any message or the purport of any message or signal to any person not entitled to receive, or to become acquainted with the same—shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for omitting to transmit or deliver messages or for divulging messages &c.

XII. Whoever offers a bribe to any person in the employ of the Government in the Electric Telegraph Department in order to induce such person to act in a manner inconsistent with his duty, shall be liable to be imprisoned for a term not exceeding six months, or to fine, or to both.

Penalty for offering a bribe.

XIII. Whoever, being in such employ, shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter or make delay in the transmission or delivery of any message, shall be liable to imprisonment, with or without hard labor, for a term not exceeding three months, or to a fine not exceeding one hundred Rupees, or to both.

Penalty for misconduct.

XIV. Whoever

ACT No. VIII OF 1860.

XIV. Whoever, being in such employ, shall transmit by the Electric Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

*Penalties for sending messages without payment to Government.*

XV. Whoever shall transmit or cause to be transmitted by an Electric Telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

*Penalties for sending fabricated message.*

XVI. Any person not being a European British subject, who shall beyond the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences mentioned in Sections X, XI, XII, XIII, XIV, and XV of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed. If any such offence be committed beyond the said local limits by a European British subject, the offender shall be punishable upon conviction before a Court of Judicature established by Royal Charter.

*Jurisdiction beyond local limits of Supreme Court.*

XVII. Any person, whether a European British subject or not, who shall within the local limits of the jurisdiction of a Court of Judicature established by Royal Charter commit any of the offences referred to in the last preceding Section, shall be punishable upon conviction before such Court.

*Jurisdiction within local limits of Supreme Court.*

XVIII. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Magistrate of Police for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint-Magistrate, or person lawfully exercising the powers of a Magistrate, within whose jurisdiction the offence shall be committed; and any person hereby made punishable by a Magistrate of Police, shall be punishable upon summary conviction.

*Fines how to be adjudged.*

XIX. All



ACT No. VIII of 1860

**XIX.** All fines imposed under the authority of this Act, for offences punishable by fine only, by any Police Magistrate, Magistrate, Joint-Magistrate, or person lawfully exercising the powers of a Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers, and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security by way of recognizance or otherwise, and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

**XX.** If any Servant of the Government, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the Government of India in which an Electric Telegraph is established by the Government, shall within the dominions of such Prince or State commit any act hereby prohibited or omit to do any act hereby required to be done by any person similarly employed within the British territories in India, such Servant of the Government shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General

Authority to punish Government Servants who commit offences against this Act in Foreign territory.

ACT No. VIII OF 1860.

of INDIA in COUNCIL to take cognizance of offences committed in such dominions by Servants of the Government, or by any Court or Magistrate or other competent Officer in any part of the British territories in India in the same manner as if the offence had been committed in such part of the said territories.

XXI. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word "Fine" shall include a penalty or forfeiture.

*Explanation of terms.*

XXII. It shall be lawful for the Governor-General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith.

*Government to frame rules for Telegraphs established by license.*

It shall also be lawful for the Governor-General in Council to declare from time to time that this Act, or such portions thereof as may be specified, shall be applicable to any Electric Telegraph established or to be established within the British Territories in India by any Foreign Prince or State with the consent of the British Government, and to persons using such Telegraph or employed in connexion therewith.

*And to declare Act applicable to Telegraphs established within British Territories by Foreign Powers.*

ACT No. IX OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 12th March 1860.)

*An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers.*

WHEREAS it is expedient to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers; It is enacted as follows:—

Preamble.

I. It shall be lawful for the Executive Government of any Presidency or place within the British Territories in India to invest any Magistrate or other Officer exercising the powers of a Magistrate with power to enquire into and decide disputes on account of wages, hire of carriage, or the price of work, between any workmen employed in the construction of any Railway, Canal, or other public work, the construction of which is or shall be sanctioned by Parliament or by any such Executive Government, and the person or persons by whom such workmen are employed.

Government may empower any Magistrate to decide disputes as to wages or price of work.

II. Magistrates empowered to decide disputes under the preceding Section shall have jurisdiction only in case the amount in dispute shall not exceed the sum of two hundred Rupees, and the claim is preferred within six months from the date on which the cause of action arose.

Magistrates to have jurisdiction in what cases.

III. The Executive Government shall fix, and may, from time to time, alter the local limits of the jurisdiction of any Magistrate invested with jurisdiction under Section I of this Act. A Magistrate so invested may hold a Court for the investigation

Government to fix and alter local limits of jurisdiction.

A

tion

ACT No. IX of 1860.

tion of disputes of the nature described in the said Section, at any place within the local limits of his jurisdiction.

IV. The rules for the institution of suits as provided in Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)* shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding Sections, and the procedure adopted shall be that provided for cases in which the suit may be disposed of at the first hearing.

No appeal. V. There shall be no appeal against any decision passed under this Act.

VI. The Magistrate having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be justly due: and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter.

VII. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter, or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII of 1859 for the determination of the like questions arising in the execution of decrees.

VIII. Any person who shall voluntarily engage for a stipulated period to work on any Railway, Canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in Section I of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty Rupees. The Magistrate may, at the request of the complainant or of any one authorized to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement; and if he shall fail to comply with the order, the Magistrate may, upon

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upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labor for any term not exceeding two months.

IX. This Act shall take effect only in those districts or places to which it shall be extended by order of the Governor General of India in Council, or of the Executive Government of any Presidency or place.

# ACT No. X OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 12th March 1860.)

*An Act to amend Act VII of 1859 (to alter the Duties of Customs on goods imported or exported by Sea.)*

Preamble. WHEREAS it is expedient to amend the law relating to Customs Duties, it is enacted as follows :—

I. From and after the 18th day of February 1860, in lieu of the Customs Duties authorized to be charged in Acts VII of 1859 (*to alter the Duties of Customs on goods imported or exported by sea*) and XXIII of 1859 (*to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively*), there shall be levied and collected the Duties as contained in the two Schedules A and B annexed to this Act; provided always that nothing herein contained shall be deemed to alter the existing Duties upon Salt and Opium, or to authorize the levy of Duties in any free Port, or to affect the provisions of Acts VI of 1848 (*for equalizing the Duties on goods imported and exported on Foreign and British Bottoms and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company*) and VII of 1848 (*to except certain free Ports from the operation of Section III Act No. VI of 1848, and otherwise to amend that Act*).

II. In case it shall be proved to the satisfaction of the Collector of Customs Duties that in respect to any Cotton Twist or Yarn which on the said 18th day of February had arrived in any Port in British India but upon which the Duty of Customs had not been paid, or which had on or before that date been shipped

Duty on Cotton Twist or Yarn sold or contracted to be delivered in India duty-paid before 18th February 1860.



ACT No. X of 1860.

10. Hemp	...	...	...	...	...	...	...	...	Free.
11. Jute	...	...	...	...	...	...	...	...	"
12. Hides and Skins, Raw	...	...	...	...	...	...	...	...	"
13. Books	...	...	...	...	...	...	...	...	"
14. Maps, Prints, and Works of Art	...	...	...	...	...	...	...	...	"
15. Seeds when imported by any Public Society for gratuitous distribution	...	...	...	...	...	...	...	...	"
16. Agricultural implements	...	...	...	...	...	...	...	...	"
17. Machinery of all kinds	...	...	...	...	...	...	...	...	"

And the Collector of Customs, subject to the general orders of the Government of India in the Revenue Department, shall decide what articles come within the definition of Machinery, and such decision shall be final in law.

18. Conveyances and carriages of every description	...	...	...	...	Free.
19. Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	...	...	...	...	"
20. Guano and manures of all kinds	...	...	...	...	"
21. Porter, Ale, Beer, Cider, and other similar fermented Liquors	...	...	...	4 annas the imperial gallon.	
22. Wines and Liqueurs	...	...	...	2 Rupees the imperial gallon.	
23. Spirits	...	...	...	3 Rupees the imperial gallon. And the duty to be rateably increased as the strength exceeds London Proof.	
24. Tobacco, unmanufactured	...	...	...	8 annas a seer of 80 tolals' weight.	
25. Tobacco, manufactured	...	...	...	1 Rupee a seer of 80 tolals' weight.	
26. All articles not included in the above enumeration	...	...	...	10 per cent <i>ad valorem</i> .	

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea from any Port in India not being a free Port.

1. Bullion and Coin	...	...	...	...	Free.
2. Precious Stones and Pearls	...	...	...	...	"
3. Horses and other living Animals	...	...	...	...	"
4. Sugar and Rum	...	...	...	...	"
5. Spirits	...	...	...	...	"
6. Tobacco, and all preparations thereof	...	...	...	...	"
					7. Tea



ACT No. X of 1860.

7.	Tea	...	...	...	...	...	...	...	...	...	Free.
8.	Coffee	...	...	...	...	...	...	...	...	...	„
9.	Raw Silk	...	...	...	...	...	...	...	...	...	„
10.	Cotton Wool	...	...	...	...	...	...	...	...	...	„
11.	Wool	...	...	...	...	...	...	...	...	...	„
12.	Flax	...	...	...	...	...	...	...	...	...	„
13.	Hemp	...	...	...	...	...	...	...	...	...	„
14.	Jute	...	...	...	...	...	...	...	...	...	„
15.	Hides and Skins, Raw	...	...	...	...	...	...	...	...	...	„
16.	Books	...	...	...	...	...	...	...	...	...	„
17.	Maps, Prints, and Works of Art	...	...	...	...	...	...	...	...	...	„
18.	Teak Timber exported from the Arracan, Pegu, Martaban, and Tanasscrim	...	...	...	...	...	...	...	...	...	„
	Provinces	...	...	...	...	...	...	...	...	...	„
19.	Grain and Pulse of all sorts	...	...	...	...	2	Annas	the	Indian	Maund.	
20.	Saltpetre...	...	...	...	...	2	Rupces	the	Indian	Maund.	
21.	Indigo	...	...	...	...	3	Rupces	the	Indian	Maund.	
22.	Lac Dye and Shell Lac..	...	...	...	...	4	per cent.	<i>ad valorem.</i>			
23.	All country articles not enumerated or named	...	...	...	...	}	3	per cent.	<i>ad valorem.</i>		
	above	...	...	...	...						

ACT No. XI of 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 9th April 1860.)

*An Act to enforce the fulfilment of Indigo Contracts, and to provide for the appointment of a Commission of Enquiry.*

WHEREAS it is expedient to issue a commission of enquiry into the practice of Indigo planting in Bengal and the relations between the Indigo Planter and the Ryots and holders of land in Bengal, and to make temporary provision for enforcing by summary process the execution of agreements entered into for the cultivation of Indigo plant; and better to provide for the punishment of certain unlawful acts connected with such cultivation; It is enacted as follows:—

I. If any person who has received a cash advance upon his agreement to cultivate Indigo plant during the season now current, shall wilfully delay or omit from and after the 4th day of April 1860, to cultivate according to the conditions of such agreement the whole quantity of land which he has agreed to cultivate, or otherwise to fulfil his engagement, it shall be competent to the Magistrate to entertain a complaint made to the above effect on oath by the Planter who has made the advance, or by any person on his behalf, and to summon the person complained of to appear before him in order to the investigation of the complaint preferred. If the Magistrate has reason to believe that the person complained of will not appear in obedience to the summons, he may issue a warrant for the arrest of such person.

II. On hearing the answer of the person complained of, and on taking such evidence as both parties may adduce, if the complaint be established to the satisfaction of the Magistrate, the Magistrate shall

Remedy.

ACT No. XI of 1860.

shall assess a certain sum as damages sustained by reason of the breach of the contract. If it shall appear to the Magistrate that the person who has agreed to cultivate the Indigo plant is still able to perform his contract, the Magistrate shall order him specifically to perform the same, and shall also in such case award a certain sum to be paid as damages as an alternative. In cases in which the land to be cultivated with the Indigo plant is defined by the agreement, the Magistrate may order the attachment, as a security for the amount of the damages assessed or to be assessed for the breach of the agreement, of any other crop of the defaulter that may at any time during the present season be growing on such land. \*If after an order for specific performance of agreement the defendant fail to perform the agreement or to pay the amount of damages ordered to be paid as an alternative, or if after an order for payment of damages the same be not immediately paid, the Magistrate may order the defendant to be imprisoned in the Civil Jail for a term not exceeding three months; and may on the motion of the complainant furthermore proceed to levy the damages assessed from the property of the defendant, in the mode provided for enforcing decrees of Court under Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*). Provided that if the amount of the

Proviso. said damages is paid or levied within the aforesaid term of three months, the defendant shall be released from Jail on that amount being paid or levied.

**III.** In case it shall appear to the satisfaction of the Magistrate that the agreement has been obtained by means of fraud, force, or unlawful intimidation, the complaint shall be dismissed.

**IV.** If any complaint preferred under this Act be dismissed for want of proof or appearance of the complainant, or for any other cause, the Magistrate may order the complainant to pay such amount for costs and compensation as he may think reasonable. In default of payment of any such amount, the same may be levied by distress and sale of the property of the person ordered to pay the same.

**V.** If any person from and after the 4th day of April 1860, shall by violence, threats, or otherwise intimidate or attempt to intimidate any other person who shall have entered into any such agreement as aforesaid, with the intention of inducing such person to break the

In what cases Magistrate may levy costs and compensation from complainant.

Penalty for intimidation, &c.

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the conditions thereof, he shall, on conviction before a Magistrate, be liable to a sentence of imprisonment with or without labor for a period not exceeding six months; or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

VI. If any person shall maliciously destroy or damage, or if any person shall maliciously command, compel, or persuade any other person to destroy or damage any growing crop of Indigo, he shall, on conviction before a Magistrate, be liable to be sentenced to imprisonment with or without labor for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

VII. No Appeal shall lie from the decision of a Magistrate under this Act.

VIII. The power of a Magistrate under this Act may be exercised by any person vested with the full powers of a Magistrate, and by any Assistant Magistrate or Deputy Magistrate specially empowered on that behalf by the Local Government.

IX. A decision of a Magistrate shall be a bar to any further proceeding for the same breach of agreement. No decision under this Act shall have any force or effect in regard to anything not to be performed during the current season.

X. This Act shall have effect from and after the 4th day of April 1860, and shall not extend beyond the Territories subject to the Lieutenant-Governor of Bengal. And no complaint or prosecution shall be entertained under this Act, unless preferred within six months from the date aforesaid.

XI. All orders made or acts done before the 4th day of April 1860, which would have been lawful if the Bill "to enforce the fulfilment of Indigo Contracts" as read a second time on the

ACT No. XI OF 1860.

24th day of March 1860 had then become law, are hereby declared to be valid.

Indemnity. And all Magistrates and other Public Officers are hereby indemnified for any acts done before the said 4th day of April 1860, which would have been justifiable under the said Bill if the same had become law on the said 24th day of March 1860.

XII. The Lieutenant-Governor of Bengal shall, as soon as conveniently may be, issue a Commission to such persons as the said Lieutenant-Governor shall think fit, for the purpose of enquiring into and reporting on the system and practice of Indigo planting in Bengal and the relations between the Indigo Planter and the Ryots and holders of land in Bengal aforesaid. The said Commissioners shall fully enquire into the matters aforesaid, and shall, as soon as they conveniently can, report to the Lieutenant-Governor the result of their enquiries, and shall in their report or reports suggest such alterations, if any, as may in their opinion be beneficially made in the law relating to the system and practice and the relations aforesaid.

XIII. In case of the death or resignation of any of the said Commissioners, or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone, but only until such vacancy can be filled up. It shall be lawful for the said Lieutenant-Governor from time to time, and he shall as soon as conveniently may be, without issuing a new Commission, appoint some other person or persons to act as a Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly appointed Commissioner or Commissioners jointly with the continuing Commissioner or Commissioners.

XIV. It shall be lawful for the Commissioners aforesaid, by a summons under the hand of any one of them, to require the attendance before them, at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within the Lieutenant-Governorship of Bengal, whose evidence shall in the judgment of the Commissioners aforesaid be material to any of the matters of the enquiry aforesaid, and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings as to them the said Commissioners

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Commissioners shall appear necessary for arriving at the truth of the matters directed to be enquired into by the said Commissioners, all which persons shall accordingly attend before the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them and shall be in their custody and control or in the custody and control of any one of them according to the tenor of the summons. Provided always that no

*Proviso.* person shall be compelled to attend before the said Commissioners or to give his evidence at a greater distance than fifty miles from the place where such person shall be residing.

XV. It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath, or in the case of persons allowed by law to make affirmation instead of taking an oath, an affirmation in such form as to them the said Commissioners shall seem fit, to all persons who shall be examined before them touching the matters to be enquired into by them as aforesaid. Provided that nothing herein contained shall render it necessary for the said Commissioners to take evidence upon oath or affirmation unless they shall think fit or expedient

*Proviso.*  
so to do.

XVI. If any person, upon whom any such summons shall be served by the delivery thereof to him or by the leaving thereof at his usual place of abode, being a person living within fifty miles of the place at which he shall be required to attend, without reasonable cause (to be allowed by the Commissioners aforesaid) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be) or shall not make answer to such questions as shall be put to him touching the matters directed, or which may hereafter be directed, to be enquired into by the Commissioners aforesaid, or shall refuse or fail without reasonable cause (to be allowed by the Commissioners aforesaid) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such person so failing to appear or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him or refusing to produce and show any such book, paper, deed, or writing as aforesaid, as the principal Court of original Civil jurisdiction within the limits

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limits of which the said person shall be residing, may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court.

XVII. Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may if they think fit order such witness to receive from the Collector such travelling and other expenses as he would have been entitled to receive had he been summoned to appear and give evidence in the principal Court of original Civil jurisdiction in the District.

XVIII. Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid, shall wilfully give false evidence, shall be liable to the punishment of perjury.

ACT No. XII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 26th April 1860.)

*An Act relating to the Emigration of Native Laborers to the British Colony of Saint Vincent.*

WHEREAS it is expedient to render lawful the emigration of laborers, being  
Native Inhabitants of British India, to the British Colony  
of Saint Vincent, and to extend the provisions of Act  
XXXI of 1855 (*relating to the emigration of Native laborers to the British Colonies of Saint Lucia and Grenada*) to the emigration of Native Inhabitants of British India, who may emigrate to Saint Vincent: It is enacted as follows:—

I. Act XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor\* to be performed in the British Colony of Saint Vincent, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed.

II. All the provisions of Act XXXI of 1855, and of the Schedule thereto, shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to Saint Vincent, and that Act shall be read as if the words "or the British Colony of Saint Vincent" had been inserted therein after the words "Saint Lucia and Grenada," or "Saint Lucia or Grenada," wherever those words occur in the said Act.

III. This



ACT No. XII of 1860.

III. This Act shall take effect as to the said Colony of Saint Vincent from  
*Commencement of Act.* the day when the Governor General of India in Council shall  
notify in the Calcutta Gazette that such Regulations have  
been provided and such measures taken as the Governor General in Council  
deems necessary for the protection of such emigrants during their residence in  
the said Colony of Saint Vincent and in respect of their return to India.

ACT No. XIII OF 1860.

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PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 26th April 1860.)

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*An Act to repeal certain Laws relating to the jurisdiction of the Zillah Court of Furruckabad.*

WHEREAS it is expedient to repeal certain Laws relating to the jurisdiction of the Zillah Court of Furruckabad; It is enacted as follows:—

Preamble.

I. Section VIII of Regulation II. 1803 of the Bengal Code (*enacting a rule for the guidance of the Zillah Court of Furruckabad, with reference to complaints preferred against any of the dependants of the Nawab of Furruckabad*) and Act XII of 1836 (*relating to the execution by the said Court of certain decrees passed by the Nawab under the provisions of the said Regulation*) are hereby repealed.

Laws Repealed.

# ACT No. XIV OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 26th April 1860.)

*An Act to provide for the execution of process within the premises occupied by His Majesty the King of Oude.*

Preamble. WHEREAS it is expedient to make provision for the execution of process within the premises occupied by His Majesty the King of Oude; It is enacted as follows:—

I. When any process, issued by any Civil Court, Collector, or other Revenue Officer in Her Majesty's East Indian Territories, is required to be served or executed within the premises occupied by the King of Oude, such process shall be transmitted to the Officer appointed to be Agent with His Majesty on the part of the British Government, and such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

II. When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or Officer exercising the powers or any of the powers of a Magistrate in Her Majesty's East Indian Territories, is required to be served or executed within the premises occupied by the King of Oude, such process may, at the discretion of the Court or Officer issuing the same, be transmitted to the Officer who shall have been appointed Agent with His Majesty on the part of the British Government, and in such case such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

III. Every

ACT No. XIV OF 1860.

III. Every certificate returned by the Agent with His Majesty under this Act,  
Proof of execution. shall in all cases be admitted as *prima facie* proof of the  
truth of the matter stated therein.

IV. It shall be lawful for the Governor General in Council to define, for the  
Limits of residence how purposes of this Act, by notification in the Calcutta Gazette,  
to be defined. the limits of the premises occupied by the King of Oude,  
and from time to time in like manner to alter such limits.

ACT No. XV of 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA

(Received the assent of the Governor General on the 26th April 1860.)

*An Act to amend and extend Act XXII of 1836 (relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals).*

WHEREAS it has been found necessary to open for traffic a new Canal leading from the late Toll House at Dhappa to Ooltadanga, and it is expedient that a Toll should be levied on Boats, Rafts, and Floats passing through the said Canal; It is enacted as follows:—

Preamble.

I. The following line of navigation, from the date of the passing of this Act, shall be subject to the provisions of Section II Act XXII of 1836, in like manner as is enacted with respect to the two lines of navigation therein described (that is to say)—

New line of Canal made subject to Section II Act XXII of 1836.

The line of Canal running North from the late Toll House at Dhappa to Ooltadanga where it joins the Circular Canal.

Act to be construed as part of Act XXII of 1836.

II. This Act shall be construed as part of the said Act XXII of 1836.

PRICE 6 PIES.

# ACT No. XVI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 26th April 1860.)

## \* An Act to amend Act XIV of 1856.

WHEREAS it is enacted by Section CXXI of Act XIV of 1856 (for the  
Preamble. conservancy and improvement of the Towns of Calcutta,  
Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca) that certain Bye-laws made by the Municipal Commissioners shall be transmitted to the Clerk of the Legislative Council as soon as conveniently may be after the confirmation thereof, and that no such Bye-law shall have effect if disallowed by order of the Legislative Council; and whereas doubts have arisen whether the Legislative Council can legally disallow any such Bye-laws by an order, or in any other manner than by a Law or Regulation, and it is expedient to avoid such doubts and to make other provision for disallowing such Bye-laws; It is enacted as follows:—

Section repealed. I. Section CXXI of the said Act XIV of 1856 is hereby repealed.

Disallowance of Bye-laws by the local Government. II. No Bye-law made under the provisions of the said Act, though confirmed by the local Government, shall continue in force after it shall have been disallowed by the local Government, except as to an act done or a breach of such Bye-law committed before the disallowance thereof.

III. Every

ACT No. XVI OF 1860.

III. Every disallowance of such a Bye-law shall be published in the Govern-  
ment Gazette, or in one or more of the public newspapers;  
Publication of disallow-  
ance. ; and all Courts and Magistrates shall take judicial notice of  
such disallowance.

# ACT No. XVII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 26th April 1860.)*

*An Act to repeal Act V of 1858 (for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders), and to make certain provisions in lieu thereof.*

WHEREAS it is expedient to repeal Act V of 1858 *(for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders)*, and to make certain provisions in lieu thereof; It is enacted as follows:—

Act V of 1858 repealed.

I. Act V of 1858 is repealed except as to any sentences passed under that Act.

II. It shall be competent to the Executive Government of any Presidency or place to declare by an order, as regards any or all of the Districts under such Government, the time within which the persons, who within such District or Districts shall, between the first of May 1857 and the time so declared, have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned, could and ought to have surrendered themselves to a Magistrate or Police Officer; and no such person who shall have so surrendered himself within the period fixed as aforesaid, shall be liable to be prosecuted under this Act.

III. Every



ACT N<sup>o</sup>. XVII OF 1860.

III. Every person who, whilst detained as aforesaid, shall have escaped from Jail or other lawful custody during the period mentioned in the last preceding Section, and who shall not have surrendered himself within the time declared by the Executive Government as aforesaid, may be sentenced to transportation for life or for any shorter period not being less than five years, or to imprisonment with or without hard labor in irons for any period not exceeding three years, in addition to any unexpired term of his original sentence. In any case falling within the provisions of this Section in which the Magistrate shall be of opinion that in addition to the unexpired term of the offender's original sentence, a more severe sentence than that which such Magistrate is by any law for the time being in force empowered to pass is not called for, it shall not be necessary for the Magistrate to order the commitment of the offender to the Sessions Court, but he may himself pass sentence to the extent of his powers and proceed to carry the sentence into execution.

Punishment for not surrendering within the time aforesaid.

In what cases Magistrate may pass sentence without commitment to Sessions Court.

IV. All sentences already passed in cases falling within the provisions of Act V of 1858, shall be deemed valid, any thing in the said Act to the contrary notwithstanding.

Sentences under Act V of 1858, to be deemed valid.

V. If any person subject to the penalty prescribed in Section I Act V of 1858, shall, before the passing of this Act, have been remanded to Jail under the order of a Magistrate to undergo the portion of his sentence remaining unexpired at the date of his escape from Jail or other lawful custody, such person shall not be liable to be prosecuted under this Act.

Certain escaped offenders, remanded to Jail, not liable to be prosecuted under this Act.

VI. The following are the crimes referred to in Section II, namely rebellion, mutiny, desertion, murder, attempts to murder, thuggee, dacoity, robbery, belonging or having belonged to a gang of thugs or to a gang of dacoits or to a wandering gang associated for the purposes of theft or robbery.

Enumeration of crimes referred to in Section II.

VII. Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict who shall have escaped as aforesaid and shall not have surrendered within the period provided in Section II of this Act, shall be liable to imprisonment.

Punishment for knowingly harbouring or concealing offenders.

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sonment with or without hard labor for any term not exceeding seven years, and shall also be liable to fine.

VIII. All proprietors of lands, and all farmers, agents, and other persons having the charge or management of lands, are hereby declared accountable for the early communication to the Magistrates and Police Officers of intelligence of the resort, to any place within the limits of the lands held or managed by them, of any person in respect of whom there shall be reasonable suspicion of his being such convict who has escaped as aforesaid; and every proprietor or other person as aforesaid who shall neglect to give such intelligence, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding six months, and to fine not exceeding two hundred Rupees, commutable, if not paid, to imprisonment for a further term not exceeding six months.

IX. Any Magistrate or person exercising the full powers of a Magistrate, unless prohibited by order of the Executive Government, is hereby authorized, without reference to any other authority, to tender a pardon to any person who may have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any crime or offence other than the crimes above-mentioned, on condition of his giving such information as may lead to the apprehension and conviction of one or more person or persons punishable under this Act. Such pardon may be tendered, as well in respect of the crime or offence for which the offender was detained, as of the offence of escaping from Jail.

X. Offences under this Act, other than those provided for by Section VIII. of this Act, may be tried by a Sessions Judge, or by a Special Commissioner appointed under Act XIV of 1857 (*to make further provision for the trial and punishment of certain offences relating to the Army and of offences against the State*); and the sentence or judgment shall not be subject to appeal. Provided that nothing contained in this Section shall extend to the trial of a European British subject.

XI. If

ACT No. XVII OF 1860.

XI. It shall be competent to the Executive Government of any Presidency or place to direct that any person, who shall be convicted of escaping from Jail or other lawful custody whilst undergoing a sentence of imprisonment, shall be transported for the term remaining unexpired of such sentence as well as for any additional term of imprisonment to which such person shall be sentenced for making his escape, provided that the aggregate of both terms shall not be less than five years.

Executive Government may transport in cases where an unexpired sentence, together with the sentence for escaping from Jail, amounts to five years.

# ACT No. XVIII OF 1860.

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PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 26th April 1860.)*

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*An Act to continue in force for a further period of three months Act XXI of 1859, for providing for the exercise of certain powers by the Governor-General during his absence from his Council.*

WHEREAS the Governor-General has represented that it is expedient that he should be enabled to prolong his absence from Calcutta and that the said Act should be continued for a further period of three months ; It is enacted as follows:—

Preamble.  
Act XXI of 1859 continued for three months. I. Act XXI of 1859 shall continue in force for the period of three months from the 9th day of May 1860.

ACT No. XIX OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 1st May 1860).

*An Act to amend Act XXII of 1855 (for the regulation of Ports and Port-dues), and Act VII of 1858 (for the levy of Port-dues at Ports within the Presidency of Fort St. George.)*

WHEREAS it is expedient that Port-dues, fees, and charges, leviable under Section XLIX of Act XXII of 1855, if not paid in the Port in which any such dues, fees, or charges, may under the said Act have become due and payable, shall be recoverable in any Port in British India by the Collector of Customs or other Officer authorized to collect such Port-dues, fees, and charges, in any such Port, and that in certain cases Vessels shall be exempt from such dues, fees, and charges: It is enacted as follows:—

L. If the Master of any Vessel in respect of which any Port-dues, fees, or charges shall be payable under the said Act, shall cause such Vessel to leave any Port without having discharged such dues, fees, or charges, it shall be lawful for the Collector of Customs or other Officer authorized to collect the same to require in writing the Collector of Customs or other Officer as aforesaid, in any other Port in British India to which such Vessel may proceed or in which she may be, to levy such dues, fees, or charges; and every Collector or other Officer to whom such requisition shall be directed shall proceed to levy such dues, fees, or charges in the manner prescribed in Section XLIX of the said Act; and a certificate purporting to be made and signed by the Collector of Customs or other Officer as aforesaid of the Port where the Port-dues, fees, or charges became payable,

ACT No. XIX of 1860.

payable, stating the amount so payable; shall be sufficient *prima facie* proof of such amount in any proceeding under the said Section, and also (in case the amount payable is disputed) in any subsequent proceeding under Section LIX of the said Act.

II. If the Master of any such Vessel shall evade the payment of any Port-dues, fees, or charges payable under the said Act, he shall be liable on conviction to a penalty not exceeding five times the amount so payable. In any proceeding before a Magistrate for the adjudication of the said penalty, any such certificate as is mentioned in Section I of this Act, stating that the Master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the Master shall show to the satisfaction of the Magistrate that the departure of the Vessel without having discharged the dues, fees, or charges payable was caused by stress of weather or that there was lawful or reasonable ground for such departure.

III. This Act shall be read with and taken as a part of the said Act XXII of 1855, save that any Magistrate having jurisdiction under the said Act in any Port, River, or Channel to which the Vessel may proceed or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this Act.

IV. Section III of Act VII of 1858 is modified as follows (that is to say)—

No Port-due on Vessels leaving any Port mentioned in Act VII of 1858 within 48 hours without discharging or taking in cargo.

any cargo or passenger therein, shall not be charged with any Port-due; and Vessels so entering and departing as aforesaid within seven days shall be charged with one half only of the Port-dues leviable under the said Act.

Port-due on Vessels leaving as aforesaid within seven days.

ACT No. XX OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 1st May 1860.)

*An Act for settling Promissory Notes of the Government of India producing an annual income of one lac of Rupees and a Mansion-house and hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet lately conferred on him and the heirs male of his body by Her present Majesty Queen Victoria, and for other purposes connected therewith.*

WHEREAS by Letters Patent of her Majesty Queen Victoria by the Grace  
of God of the United Kingdom of Great Britain and Ireland,  
Queen, Defender of the Faith, dated at Westminster on  
or about the sixth day of August, in the Twenty-first year of Her Reign, and by  
Warrant under the Queen's sign-manual, Her said Majesty made known that,  
she, of her special grace, certain knowledge, and mere motion had erected,  
appointed, and created Sir Jamsetjee Jejeebhoy, then of Bombay, Knight, but  
since deceased (a man eminent for family inheritance, estate, and integrity of  
manners,) to and into the dignity, state, and degree of a Baronet, and him, the  
said Sir Jamsetjee Jejeebhoy for Her Majesty, her heirs, and successors, she  
did erect, appoint, constitute, and create a Baronet, by the said Letters Patent  
to hold to him and the heirs male of his body lawfully begotten, and to be begotten  
for ever.

And whereas, in fulfilment of an engagement in that behalf made with Her  
Majesty's Government, during the life time of the said  
Sir Jamsetjee Jejeebhoy, deceased; the said Sir Jamsetjee  
Jejeebhoy was desirous of settling in perpetuity such property on himself and the  
heirs

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heirs male of his body who might succeed to the said Baronetcy, as should be adequate to support the dignity of the title conferred on him and them as aforesaid.

And whereas the said Sir Jamsetjee Jejeebhoy was seised of a Mansion-house and hereditaments situate in the Island of Bombay called Mazagon Castle, and had an absolute estate of inheritance therein, and was desirous in fulfilment of the aforesaid engagement, of settling Promissory Notes of the Government of India producing an annual income of one lac of Rupees and the said Mansion-house and hereditaments, to the uses, upon the trusts, and for the purposes hereinafter limited and declared, concerning the same respectively.

Of Mansion and other hereditaments.

And of Government Promissory Notes.

And whereas the said Sir Jamsetjee Jejeebhoy was also desirous that the heirs male of his body to whom the said title and dignity of Baronet should descend, should take and bear the names of "Jamsetjee Jejeebhoy" in lieu of any other name or names whatever which they respectively might bear at the time of such descent on them respectively; and he was also desirous that the Revenue Commissioner for the Northern Division of the Presidency of Bombay, the Accountant General, and the ~~Sub-Treasurer of Bombay~~ <sup>Collector of</sup> Bombay for the time being should be Trustees of the aforesaid Promissory Notes, and be likewise the Trustees, for carrying into execution the general purposes and powers of this Act, with relation to the same securities, and also with relation to the same Mansion-house and hereditaments.

Desire of first Baronet that his successors should take his names.

And whereas the said Sir Jamsetjee Jejeebhoy departed this life on the 14th of April 1859, before the aforesaid engagement with Her Majesty's Government was carried out on his part, and by his Will, dated the 9th of April 1853, duly signed and executed by him, gave and devised the residue of his estate, houses, lands, securities, monies, and effects to and amongst his sons Cursetjee Jamsetjee, Rustomjee Jamsetjee and Sorabjee Jamsetjee, and appointed his wife Avaboye and his said three sons, the Executrix and Executors of his said Will, and the said Will has since been duly proved by the said Cursetjee Jamsetjee, Rustomjee Jamsetjee, and Sorabjee Jamsetjee alone; and whereas on the death of the said Sir Jamsetjee Jejeebhoy the said title or dignity of Baronet created by Her Majesty's said Letters Patent, devolved on and became and is now vested in the said Cursetjee Jamsetjee as the eldest son and heir male of the body of the said Sir Jamsetjee Jejeebhoy, deceased.

And



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And whereas the said Cursetjee Jamsetjee, the second and present Baronet, Rustomjee Jamsetjee, and Sorabjee Jamsetjee as the sons, residuary legatees, and executors of the said Sir Jamsetjee Jejeebhoy, deceased, and the said Avaboye, now the Dowager Lady Jejeebhoy as executrix of the said Sir Jamsetjee Jejeebhoy, deceased, in fulfilment of the engagement so as aforesaid entered into by the said Sir Jamsetjee Jejeebhoy, deceased, with Her Majesty's Government, are desirous of settling the said Government Promissory Notes, and the said Mansion-house and hereditaments so as aforesaid agreed to be settled by the said Sir Jamsetjee Jejeebhoy, deceased, for the purpose of supporting the dignity of the said Baronetcy, to the uses, upon the trusts, and for the purposes hereinafter limited and declared concerning the same respectively. And whereas the said Dowager Lady Jejeebhoy is desirous that the said Mansion-house and hereditaments called Mazagon Castle, with their rights, members, and appurtenances shall be released, exonerated, and discharged from her right or title (if any) to dower or thirds and every other right, interest, or estate whatsoever which she, the said Dowager Lady Jejeebhoy, may or might have or claim to have in the said premises under any custom or law of the Parsees, or otherwise howsoever.

And whereas the aforesaid purposes cannot be effected without this Act of the Legislative Council of India.

It is enacted as follows:—(The sanction of Her Majesty having been previously obtained and signified in pursuance of an Act passed in the seventeenth year of the reign of Her said Majesty, entitled "An Act to provide for the Government of India.")

I. The Revenue Commissioner for the Northern Division of the Presidency of Bombay, the Accountant General, and the Sub-Treasurer at Bombay shall, for the purposes of this Act, be a Corporation, and such Revenue Commissioner, Accountant General, and ~~Sub-Treasurer~~ shall be, and they are hereby constituted, as such corporation, the Trustees for executing the powers and purposes of this Act, and all the powers hereby vested in such Revenue Commissioner, Accountant General, and ~~Sub-Treasurer~~ as Trustees for the purposes of this Act shall be exercised by the persons for the time being acting as such Revenue Commissioner, Accountant General, and Sub-Treasurer. *Colln of W. H.*

The Revenue Commissioner, Northern Division, the Accountant General, and the Sub-Treasurer of Bombay to be a Corporation for execution of trusts of this Act.

II. The

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II. The present Baronet and all other the heirs male of the body of the said first Baronet to whom the said title and dignity shall descend, pursuant to the limitation of the Patent whereby the said dignity is granted, shall take upon themselves respectively the names of "Jamsetjee Jejeebhoy" in lieu and in the place of any other name or names whatever, and the present Baronet and all such other heirs male of the first Baronet severally and successively shall be called by the names of "Jamsetjee Jejeebhoy," and by those names shall name, style, and write themselves respectively upon all occasions whatsoever.

The present and all future Baronets to take names of first Baronet.

III. Immediately from and after the passing of this Act, Promissory Notes of the Government of India producing an annual income of not less than one lac of Rupees shall be transferred into the name of the said Corporation, who shall hold the same upon the trusts and for the purposes hereinafter expressed concerning the same (that is to say) upon trust, if the same should be discharged by the Government of India, to invest the said sum in or on any stocks, funds, or securities of the Government of the United Kingdom of Great Britain and Ireland or of the Government of India, and in like manner as often as the same shall become necessary, to alter, vary, and change such stocks, funds, and securities for others of the same or like nature, and upon further trust, from time to time to pay and apply the dividends, interest, and annual income of the said stocks, funds, and securities unto and for the benefit of the present Baronet, and the person who, as heir male of the body of the said first Baronet, shall, for the time being, have succeeded to and be in the enjoyment of the title of Baronet conferred by the said Letters Patent as aforesaid, notwithstanding any rule of law or equity to the contrary, and upon failure and in default of heirs male of the body of the said first Baronet to whom the same title and dignity of Baronet may descend, upon trust for the present Baronet, his executors, administrators, and assigns, which ultimate remainder or reversion, it shall be lawful for the present Baronet, his executors, administrators, and assigns, at any time or times, during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said first Baronet as aforesaid, to assign, transfer, bequeath, and dispose of by deed or will, or other assurance or assurances.

Government Promissory Notes producing an annual income of one Lac vested in Trustees.

On trust to re-invest, if paid off.

And to pay income to the Baronet for the time being.

With ultimate trust for second Baronet, his executors, administrators, and assigns and power to dispose thereof.

IV. The

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IV. The Trustees for the time being acting in the execution of the trusts

Power to Trustees to invest the surplus annual interest and income of the Trust Fund and premises during the minority of any Baronet, &c.

hereby created during the minority of any person for the time being entitled to and in enjoyment of the said dignity of Baronet under the limitations of the said Letters Patent, shall pay and apply for and towards the maintenance, education, and benefit of such Baronet, in each and every year during such his minority as aforesaid, so much only of the annual interest, dividends, and income of the said Trust Funds and premises as such Trustees shall, in their discretion, think proper, and shall, from time to time, invest the residue of the said annual dividends, interest, and income of the said Trust Funds and premises in and upon the stock, funds, and securities of the Government of the United Kingdom of Great Britain and Ireland, or of the Government of India, and shall, upon such Baronet attaining his majority, pay over, transfer, and assign to him or as he shall direct, and for his absolute benefit, the said investments and all accumulations thereof.

V. The mansion-house and other hereditaments called Mazagon Castle,

Settlement of Mansion &c., in support of Baronetcy.

situate in the Island of Bombay, with their rights, members, and appurtenances, of which the said first Baronet was seized to him and his heirs, shall, by force of this Act, from and immediately after the passing thereof, stand limited to the uses following (that is to say,) to the use of the present Baronet, and the heirs male of the body of the said first Baronet who may succeed to the title of Baronet, conferred by the said Letters Patent as aforesaid, and upon failure and default of heirs male of the body of the said first Baronet to whom the same title and dignity of Baronet may descend as aforesaid, to the use of the present Baronet, his heirs,

With ultimate remainder to the second Baronet in fee and power to dispose thereof.

and assigns for ever, which ultimate remainder or reversion it shall be lawful for him and his heirs and assigns, at any time or times during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said first Baronet as aforesaid, to grant, convey, devise, and dispose of by deed or will, or by any other assurance or assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of, by Parsee inhabitants of British India.

VI. Provided always that in case any person who for the time being

Provision in case of refusal or discontinuance of names of first Baronet.

shall be the heir male of the body of the said first Baronet to whom the said title of Baronet shall have descended, shall, for the space of one whole year after he shall, by

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virtue of this Act, become entitled to the dividends, interest, and income of the said stocks, funds, and securities, or to the possession or receipt of the rents and profits of the said hereditaments, or being then under age shall, for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of "Jamsetjee Jejeebhoy" as hereinbefore enacted, or in case any such person having so used those names shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest of the person who shall so refuse or neglect to use, or having used shall so discontinue to use the said names of "Jamsetjee Jejeebhoy" shall, during the remainder of his respective natural life, be suspended; and that, during any and every such suspension, the dividends, interest, and income of the said stocks, funds, and securities and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who, as heir male of the body of the first Baronet, would have succeeded to and been in the enjoyment of the title of Baronet conferred by the said Letters Patent in case the person so refusing or neglecting to use or discontinuing to use the said names of "Jamsetjee Jejeebhoy" had departed this life, but if there should be no such heir male, then to the person or persons who would be entitled to the same in case there had then been a total failure of issue male of the first Baronet entitled to the said dignity of Baronet.

VII. It shall be lawful for the present Baronet and for any person upon whom the said title of Baronet shall, from time to time, descend, when in the actual enjoyment of the said title, and who shall not refuse, neglect, or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of "Jamsetjee Jejeebhoy" as hereinbefore enacted, either before or after his marriage with any woman or women by any deed or deeds, writing or writings with or without power of revocation to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to any annuity or annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power) to limit and appoint unto any woman or women whom he shall marry for her or their life or lives, and for her or their jointure or jointures in bar of dower or other legal or customary rights, any annuity or yearly sum not exceeding the sum of Company's Rupees ten thousand, clear of all taxes, charges, and deductions whatsoever, to commence and take effect immediately after the decease of the person limiting or appointing the

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the same and to be issuing and payable out of the dividends, interest, and annual income of the said stocks, funds, and securities, and to be paid and payable by equal half yearly payments on the thirtieth day of June and the thirty-first day of December, the first of the said half-yearly payments to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly sum, provided always that, in case any person on whom such title shall descend, shall have refused or neglected to use the names of "Jamsetjee Jejeebhoy" or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him, shall be and become inoperative and invalid, and no such annuity thereby created or appointed shall take effect or be payable or chargeable on the said stocks, funds, and securities notwithstanding any such limitation or appointment.

VIII. Provided always that the said dividends, interest, and annual income of the said stocks, funds, and securities shall not at one and the same time be subject to the payment of more than the yearly sum of Company's Rupees twenty thousand for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of, or under the same power, the said dividends, interest, and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of Company's Rupees twenty thousand, the yearly sum which shall occasion such excess, or such part thereof as shall occasion the same, shall during the time of such excess abate and not be payable.

Limit of aggregate of jointure payable contemporaneously.

IX. The said Mansion-house and hereditaments called Mazagon Castle, with their rights, members, and appurtenances, shall not be subject to dower of the said Dowager Lady Jejeebhoy the widow of the first Baronet or of the wife or wives of the present Baronet, or of any of the persons who may successively be entitled thereto under the aforesaid limitations, or to any other right, interest, or estate whatsoever which the said Dowager Lady Jejeebhoy or any such wife or wives may or might have or claim to have in the said Mansion-house and hereditaments under any custom or law of the Parsees, or otherwise howsoever.

Mansion-house and hereditaments not to be subject to dower.

X. Subject

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X. Subject to the enactments contained in the third and fifth Sections, with respect to the ultimate remainders ~~or~~ reversions, so long as the said title and dignity of Baronet shall endure, and until there shall be a failure of heirs male of the body of the first Baronet to whom the said title and dignity of Baronet might descend pursuant to the limitations of the Patent whereby the said dignity was granted, neither the present Baronet nor any of the heirs male of the body of the first Baronet in whose favor trusts are hereinbefore declared of the dividends, interest, and annual income of the said stocks, funds, and securities, or to whom the said Mansion-house and hereditaments called Mazagon Castle shall stand limited under this Act, shall transfer, dispose of, alien, convey, charge, or encumber the said stocks, funds, and securities, or any part thereof, or the dividends, interest, and annual income thereof, or of any part thereof, or the said Mansion-house or hereditaments or any part thereof, for any greater or larger estate, interest, or time than during his natural life, and for such portion thereof only as he shall continue to use the names of "Jamsetjee Jejeebhoy," nor shall have any power to discontinue or bar the estate of any person or persons for whose benefit trusts are declared by this Act of the dividends, interest, and annual income of the said stocks, funds, and securities, or to or upon whom the said Mansion-house and hereditaments and the rents and profits thereof are by this Act limited to come or devolve in any manner whatsoever either by default or otherwise, or to prevent any such person or persons from succeeding to, holding or enjoying, receiving or taking the same premises according to the true intent of the provisions hereinbefore contained, nor shall the same premises or any of them be held by any Court of law or equity to have vested in any such person as aforesaid for any greater estate or interest than during his life, and only during such portion thereof as he shall continue to use the names of "Jamsetjee Jejeebhoy," and every attempt to make any conveyance, assignment, or assurance contrary to the intention of this Act shall be, and is hereby declared and enacted to be void.

XI. If at any time hereafter the said Offices of Revenue Commissioner for the Northern Division of the Presidency of Bombay, Accountant General, and Sub-Treasurer at Bombay or any or either of them shall be abolished or cease to exist, it shall be lawful to and for the Governor in Council of Bombay for the time being with the consent and approbation of the person for the time being in the actual enjoyment of the said title of Baronet, and using the said names of "Jamsetjee Jejeebhoy"

Power to the Governor in Council of Bombay to appoint persons holding Government Offices, as Trustees under this Act, in the event of the Offices of Revenue Commissioner, Accountant General, and Sub-Treasurer, or any of them being abolished.

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jeebhoy" and having attained the age of twenty-one years, and if there shall not be any such person, then without the consent or approbation of any person or persons whomsoever, to nominate and appoint any other persons or person holding or filling any other Public Government Offices or Office at Bombay, to be and act as Trustees or Trustee in the execution of the trusts created by this Act, and upon such nomination and appointment the said Trust Funds and premises shall by force of this Act forthwith vest in the persons or person so nominated and appointed Trustees or Trustee as lastly mentioned, together with the then continuing Trustees or Trustee, but if there shall be no such continuing Trustees or Trustee then in new Trustees only upon and for the trusts and purposes hereby created and declared, and when and so often as any such nomination and appointment shall be made, such new Trustee or Trustees jointly with such continuing Trustees or Trustee, or such new Trustees only, as the case may be, shall be, and they are hereby constituted a Corporation for executing the powers and purposes of this Act.

XII. The Trustees for the time being acting in execution of the trusts and powers hereby created and reposed in them respectively, and their successors respectively, shall be charged and chargeable for such monies only as he and they respectively shall actually receive by virtue of the trusts, powers, and provisions of this Act, notwithstanding his, their, or any of their giving or signing, or joining in giving or signing any receipt or receipts for the sake of conformity; and he and they respectively shall not be answerable or accountable for any banker or broker, agent or other person with whom or in whose hands any part of the said trust money shall or may be deposited or lodged for safe custody or otherwise in the execution of any of the trusts, powers, and provisions hereinbefore created or contained; and the Trustees for the time being acting in execution of the trusts and powers hereby created and reposed in them respectively, and their successors respectively, shall not be answerable or accountable for the insufficiency or deficiency of any security or securities, stocks or funds in or upon which the said trust money or any part thereof shall be placed out or invested, nor for any other misfortune, loss, or damage which may happen in the execution of the aforesaid trusts, powers, and provisions, or in relation thereto; and it shall be lawful for him and them respectively with or out of the money which shall come to his or their respective hands by virtue of the trusts and provisions of this Act, to retain and reimburse to himself and themselves respectively all costs, damages, and expenses which he and they respectively shall or may sustain, expend, or disburse in or about the execution of the aforesaid powers, trusts, and provisions, or in relation thereto.

XIII. Saving

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XIII. Saving always to the Queen's Most Excellent Majesty, Her heirs and successors, and to all and every other person and persons bodies politic and corporate, and his, her, and their respective heirs, successors, executors, and administrators and every of them (other than and except the said Sir Jamssetjee Jejeebhoy, deceased, his devisees, heirs, and assigns), all such estate, right, title, interest, claim, and demand whatsoever, in, to, out of, or upon the said Mansion-house and hereditaments called Mazagon Castle, or any part or parts thereof, as they, every or any of them, had, before the passing of this Act, and would, could, or might have had, held, or enjoyed in case this Act had not been passed.



# ACT No. XXI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 21st May 1860.)

## *An Act for the Registration of Literary, Scientific, and Charitable Societies.*

Preamble. WHEREAS it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of Literature, Science, or the Fine Arts, or for the diffusion of useful knowledge, or for Charitable purposes; It is enacted as follows:—

I. Any seven or more persons associated for any Literary, Scientific, or Charitable purpose, or for any such purpose as is described in Section XX of this Act, may, by subscribing their names to a Memorandum of Association, and filing the same with the Registrar of Joint-Stock Companies under Act XIX of 1857, form themselves into a Society under this Act.

Memorandum of Association.

II. The Memorandum of Association shall contain the following things, (that is to say)—

The name of the Society.

The objects of the Society.

The names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body to whom, by the Rules of the Society, the management of its affairs is entrusted. A copy of the Rules and Regulations of the

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the Society, certified to be a correct copy by not less than three of the Members of the governing body, shall be filed with the Memorandum Association.

III. Upon such Memorandum and certified copy being filed, the Registrar shall certify under his hand that the Society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty Rupees, or such smaller fee as the Governor General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Registration.

Fees.

IV. Once in every year, on or before the 14th day succeeding the day on which, according to the Rules of the Society, the Annual General Meeting of the Society is held, or if the Rules do not provide for an Annual General Meeting, in the month of January, a list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body then entrusted with the management of the affairs of the Society.

Annual list of managing body to be filed.

V. The property, moveable and immoveable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such Society, and in all proceedings, Civil and Criminal, may be described as the property of the governing body of such Society by their proper title.

Property of Society how to be vested.

VI. Every Society registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary, or Trustees, as shall be determined by the Rules and Regulations of the Society, and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; provided that it shall be competent for any person having a claim or demand against the Society, to sue the President or Chairman, or Principal Secretary or the Trustees thereof, if on application to the governing body some other Officer or person be not nominated to be the defendant.

How suits by and against Societies to be brought.

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VII. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

VIII. If a judgment shall be recovered against the person or Officer named on behalf of the Society, such judgment shall not be put in force against the property, moveable or immoveable, or against the body of such person or Officer, but against the property of the Society. The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the Society only, and shall require to have the judgment enforced against the property of the Society.

IX. Whenever by any Bye-law duly made in accordance with the Rules and Regulations of the Society, or, if the Rules do not provide for the making of Bye-laws, by any Bye-law made at a General Meeting of the Members of the Society convened for the purpose, (for the making of which the concurrent votes of three-fifths of the Members present at such Meeting shall be necessary), any pecuniary penalty is imposed for the breach of any Rule or Bye-law of the Society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the Society shall be situate, as the governing body thereof shall deem expedient.

X. Any Member who may be in arrear of a subscription which according to the Rules of the Society he is bound to pay or who shall possess himself of or detain any property of the Society in a manner or for a time contrary to such Rules, or shall injure or destroy any property of the Society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided. But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the Society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the Officer in whose name the suit shall be brought, or from the Society, and in the latter case shall have process against the property of the said Society in the manner above described.

XI. Any

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XI. Any Member of the Society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such Society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the Society may be exposed to loss, shall be subject to the same prosecution, and if convicted, shall be liable to be punished in like manner, as any person not a Member would be subject and liable to in respect of the like offence.

XII. Whenever it shall appear to the governing body of any Society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such Society either wholly or partially with any other Society, such governing body may submit the proposition to the Members of the Society in a written or printed report, and may convene a Special Meeting for the consideration thereof according to the Regulations of the Society; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every Member of the Society ten days previous to the Special Meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the Members delivered in person or by proxy, and confirmed by the votes of three-fifths of the Members present at a second Special Meeting convened by the governing body at an interval of one month after the former Meeting.

XIII. Any number not less than three-fifths of the Members of any Society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the Society, its claims, and liabilities, according to the Rules of the said Society applicable thereto, if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the Members of the Society, the adjustment of its affairs shall be referred to the principal Court of original Civil jurisdiction of the District in which the chief building of the Society is situate; and the Court shall make such order in the matter as it shall deem requisite. Provided that no Society shall be dissolved unless three-fifths of the Members shall

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shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general Meeting convened for the purpose. Provided that whenever the Government is a Member of, or a contributor to, or otherwise interested in any Society registered under this Act, such Society shall not be dissolved without the consent of Government.

XIV. If upon the dissolution of any Society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the said Society or any of them, but shall be given to some other Society, to be determined by the votes of not less than three-fifths of the Members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid; provided however that this Clause shall not apply to any Society which shall have been founded or established by the contributions of shareholders in the nature of a Joint Stock Company.

Upon a dissolution no Member to receive profit.

Proviso for Joint Stock Companies.

XV. For the purposes of this Act a Member of a Society shall be a person who having been admitted therein according to the Rules and Regulations thereof, shall have paid a subscription, or shall have signed the roll or list of Members thereof, and shall not have resigned in accordance with such Rules and Regulations; but in all proceedings under this Act no person shall be entitled to vote or be counted as a Member whose subscription at the time shall have been in arrear for a period exceeding three months.

Who is a Member.

XVI. The governing body of the Society shall be the Governors, Council, Directors, Committee, Trustees, or other body to whom by the Rules and Regulations of the Society the management of its affairs is entrusted.

The governing body defined.

XVII. Any Company or Society established for a Literary, Scientific, or Charitable purpose and registered under Act XLIII of 1850, or any such Society established and constituted previously to the passing of this Act but not registered under the said Act XLIII of 1850, may at any time hereafter be registered as a Society under this Act; subject to the proviso that no such Company or Society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the

Registration of Societies formed before this Act.

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the Members present personally, or by proxy, at some General Meeting convened for that purpose by the governing body. In the case of a Company or Society registered under Act XLIII of 1850, the Directors shall be deemed to be such governing body. In the case of a Society not so registered, if no such body shall have been constituted on the establishment of the Society, it shall be competent for the Members thereof, upon due notice, to create for itself a governing body to act for the Society thenceforth.

XVIII. In order to any such Society as is mentioned in the last preceding Section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint Stock Companies under Act XIX of 1857, a Memorandum showing the name of the Society, the objects of the Society, and the names, addresses, and occupations of the governing body, together with a copy of the Rules and Regulations of the Society certified as provided in Section II, and a copy of the report of the Proceedings of the General Meeting at which the registration was resolved on.

Such Societies to file Memorandum &c., with Registrar of Joint-Stock Companies.

XIX. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one Rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

Inspection of documents.

Certified copies.

XX. The following Societies may be registered under this Act, Charitable Societies, the Military Orphan Funds or Societies established at the several Presidencies of India, Societies established for the promotion of Science, Literature, or the fine Arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of Libraries or Reading-rooms for general use among the Members or open to the public, or public Museums and Galleries of Paintings and other works of Art, Collections of Natural History, Mechanical and Philosophical Inventions, Instruments, or Designs.

To what Societies the Act shall apply.

# ACT No. XXII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 21st May 1860).*

*An Act to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.*

WHEREAS it is expedient to remove the Hilly and Forest tracts of country situated on the Eastern border of the District of Chittagong from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that District, under the general Regulations and Acts of the Government; It is enacted as follows:—

**Preamble.**

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tract, unless the same be specially named therein: provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

**Proviso.**

II. The

ACT No. XXII, OF 1860.

II. The administration of Civil and Criminal justice and the superintendence of the settlement and realization of the public Revenue and of all matters relating to rent within the said tracts, are hereby vested in such Officer or Officers as the Lieutenant Governor of Bengal may for the purpose of tribunals of first instance or of reference and appeal appoint, and the Officer or Officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the Lieutenant Governor of Bengal, and be guided by such instructions as the Lieutenant Governor of Bengal may from time to time issue.

Administration of justice and collection of Revenue vested in Officers subject to the control of the Lieutenant Governor of Bengal.

III. It shall be lawful for the Lieutenant Governor of Bengal to direct that an appeal may be heard in any of the matters described in the last preceding Section by the Civil and Sessions Judge of Chittagong or the Commissioner of Revenue for that District or by the Sudder Dewanny and Nizamut Adawlut or by the Board of Revenue, and to declare in what cases the order made by any Officer or Court empowered by the Lieutenant Governor to dispose of any of the matters aforesaid, shall be final.

Appeals.

IV. It shall be lawful to the Lieutenant Governor of Bengal to direct any Officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death passed by any person competent under the direction of the Lieutenant Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court shall not call for the Futwah of its Law Officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.

Reference to the Sudder Court.

V. Any person liable to be imprisoned in any Civil or Criminal Jail or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Jail or transported to any place which the Lieutenant Governor of Bengal may direct.

Place of imprisonment or transportation.

VI. When



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VI. When a question shall arise whether any place falls within the tracts described in the Schedule of this Act, it shall be competent to the Commissioner of Revenue for the District of Chittagong to consider and determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

Questions of disputed boundary to be determined by Commissioner of Chittagong.

VII. This Act shall take effect from such date as shall be fixed by the Lieutenant Governor of Bengal, and notification thereof shall be published in the Office of the Commissioner of Revenue and the Courts of the Civil and Sessions Judge and of the Magistrate of Chittagong, and in such other manner as the Lieutenant Governor may direct.

Commencement of Act.

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SCHEDULE.

The boundary of the Hilly and Forest tract referred to in the foregoing Act shall be understood generally to run to the eastward of the surveyed area of the villages situated on the eastern frontier of the Chittagong District as surveyed and mapped in the course of the Revenue Survey of that District, and shall be more particularly taken to be indicated as follows:—

As respects Thannah Futtickcherree, all the country lying east of the villages Ramghur, Joozkola, Hapuneah, Fuckeerachung, Kunchunpoor, and Goomareetulla.

Thannah Hathezaree, all the country lying East of Mugkatta, Radahmathebpoor, and other surveyed villages of this Thannah and of a line drawn from the south-eastern boundary to Gogra in Faree Rungunneah.

Faree Rungunneah, all the country lying to the east of Gogra, Nichintapoor, Kodala, Puddooa, Dood-Pookereah, and other surveyed villages of this Faree situated on both sides of the Fenny River.

As respects

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As respects Thannah Putteah, all the country lying east of the surveyed villages of this Thannah, that is to say lying east of a line drawn from the eastern surveyed boundary of Dood-Pookereah in Farce Run-gunneah down to the eastern surveyed boundary of the village Doobacherree lying north of the River Sunkoo.

” ” Thannah Sutkuneah, all the country lying east of Pooranghur, Bur-dooara, Andar Manik, Rajbarree, and other surveyed villages of this Thannah.

” ” Thannah Chuckereah, all the country lying eastward of a line drawn from the village Rajbarree in Thannah Tulkuneah to the surveyed villages Boonoo and Bilcherrie on the Morce River in Thannah Chuckereah, and also all the country lying eastward of the surveyed villages of this Thannah between Bilcherrie and Pagoleebeel.

” ” Thannah Ramoo, all the country lying east of a line drawn from Pagoleebeel in Thannah Chuckeriah to Edghur, Gurjamah, and Kucheppeah in Thannah Ramoo.

Also all the country comprised in Thannah Teknaaf and lying south of the mouth of the Rajoo River and south and east of a line drawn from the Rajoo River to the surveyed village Kucheppeah of Thannah Ramoo.

# ACT No. XXIII OF 1860,

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 23rd May 1860.)*

*An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.)*

WHEREAS it is expedient to increase the rate of duty levied on spirits manufactured at distilleries worked according to the English method, and otherwise to amend Act XXI of 1856; It is enacted as follows:—

I. Section IX Act XXI of 1856, so much of Section VII of the said Act as prescribes that the duty leviable on spirits manufactured at distilleries worked according to the English method for the Imperial gallon of the strength of London proof shall be one Rupee, and so much of Section XV of the said Act as prohibits spirits under bond from being exported or shipped to any Port in India without payment of duty, are hereby repealed. On and after the 21st January 1860 it shall be lawful for the Government to levy the duty as aforesaid at the rate of three Rupees, and the duty shall be rateably increased as the strength exceeds London proof.

II. Spirits may be removed from any licensed distillery for exportation without payment of duty under such rules and restrictions as may be from time to time prescribed by the Board of Revenue, on the person removing them executing a bond with

## ACT No XXIII OF 1860

with one or more sureties to the Government in the form hereunto annexed for the payment of the prescribed duty upon such portion of the said spirits as may not be exported within four months from the date of the bond, or upon such portion as may be exported to any other Port within British India not being a free Port, proof of the landing whereof and of the payment of the duty whereon shall not be furnished to the satisfaction of the Board of Revenue within six months from the date of such bond. Provided however that it shall be lawful for the Collector, with the sanction of the Commissioner, on sufficient cause shown, to extend the period allowed for the exportation of the spirits, or as the case may be for the production of such proof as aforesaid, for a further term of four months. Provided also that spirits exported as aforesaid shall, if imported at any Port in the Territories subject to the Government of India, be charged with the duty payable on account of spirits imported by sea under any Act for the time being in force.

III When any person is sentenced to pay any fine or forfeiture under the said Act, such person in default of payment of the same may be imprisoned by order of the Magistrate for any term not exceeding two months when the amount of the fine or forfeiture shall not exceed fifty Rupees, or for any term not exceeding four months when the amount of the fine or forfeiture shall not exceed two hundred Rupees, or for any term not exceeding six months when the amount of the fine or forfeiture shall exceed two hundred Rupees. but in any case the imprisonment shall determine upon the payment of the fine or forfeiture adjudged.

IV Every Collector or other Officer is hereby indemnified for any thing done on and after the said 21st of January 1860 in collecting or enforcing the duty leviable under the 1st Section of this Act, or by virtue of any order of Government heretofore made authorizing the levy of any such duty, or in otherwise carrying out this Act, and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done

V This Act and Act XXI of 1856 as hereby amended shall be read as one Act.

FORM

ACT No. XXIII OF 1860.

FORM OF BOND UNDER SECTION II.

Know all men by these presents, That we \_\_\_\_\_ are jointly and severally held and firmly bound unto the Secretary of State for India in the sum of \_\_\_\_\_ Company's Rupees to be paid to the said Secretary of State for India; for which payment well and truly to be made, we jointly and severally bind ourselves and each of us binds himself and each and every one of our respective heirs, administrators, and representatives by these presents

*Sealed with our seals.*

*Dated this \_\_\_\_\_ day of \_\_\_\_\_*

Whereas the above bounden \_\_\_\_\_ are justly and truly indebted to the Secretary of State for India in the sum of \_\_\_\_\_ Company's Rupees being the amount of duty payable to the Secretary of State for India at the rate of three Rupees per imperial gallon London proof for \_\_\_\_\_ gallons of \_\_\_\_\_ manufactured at \_\_\_\_\_ which the said \_\_\_\_\_ ha been allowed to remove thence for exportation by sea without having paid the amount of such duty Now the condition of this obligation is such that, if the above-bounden \_\_\_\_\_ his or their heirs, executors, administrators, or representatives or some or one of them, do and shall at the expiration of four calendar months from the date of this obligation well and truly pay or cause to be paid to the said Secretary of State for India duty at the rate of three Rupees per imperial gallon of proof spirit for all or any portion of the above-mentioned \_\_\_\_\_ which shall not have been exported by sea or which shall have been passed for local consumption, or if the above bounden \_\_\_\_\_ his or their heirs, executors, administrators, or representatives or one of them do and shall within four months from the date of this obligation export the said \_\_\_\_\_ by sea to some Port in British India (not being a free Port) and within six months from the date of this obligation afford proof to the satisfaction of the Board of Revenue that the same \_\_\_\_\_ has

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has been landed at such Port (not being a free Port) and that duty thereon according to the provisions of this Act has at such Port been paid thereon, then this obligation shall be void; otherwise it shall remain in full force and virtue.

*Sealed and delivered  
in the presence of*

# ACT No. XXIV OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 23rd May 1860.)*

*An Act for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland.*

WHEREAS by an Act of Parliament passed in the 58th year of the reign of King George the 3rd, entitled "An Act to remove doubts as to the validity of certain Marriages had and solemnized within the British Territories in India," it was declared and enacted (amongst other things) that from and after the 31st day of December then next ensuing all marriages between persons, both or one of such persons being members or member of, or holding communion with the Church of Scotland, and making a declaration to the effect thereafter mentioned, which marriages should be had and solemnized within the British Territories in India by ordained Ministers of the Church of Scotland as by law established, and appointed by the United Company of Merchants of England trading to the East Indies to officiate as Chaplains within the said territories, should be, and should be adjudged, esteemed, and taken to be of the same, and no other force and effect, as if such marriages were had and solemnized by Clergymen of the Church of England, according to the rites and ceremonies of the Church of England: and whereas it is expedient that so much of the said Act of Parliament as requires ordained Ministers of the Church of Scotland celebrating such marriages to be also persons appointed to officiate as Chaplains within the said Territories, should cease to have effect; It is enacted as follows:—

I. So much of the said Act of Parliament as requires that the ordained Ministers of the Church of Scotland as by law established therein referred to should be persons appointed to officiate as Chaplains within the said Territories, is hereby repealed.

Part of 58 Geo. III, c.  
84 repealed.

# ACT No. XXV OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 23rd May 1860).

## *An Act for the levy of Port-dues in the Port of Bassein.*

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Port of Bassein in accordance with the provisions of Act XXII of 1855; It is enacted as follows:—

Preamble.

I. A Port-due at a rate not exceeding the rate of four annas per every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter the said Port.

Port-due chargeable on sea-going vessels of ten tons and upwards entering the Port.

II. When any vessel enters the said Port, being driven in by stress of weather, or in consequence of having sustained any damage or for any other reason, but does not discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair), the Port-due chargeable in respect of such vessel shall be at a rate equal to one half the rate chargeable in respect of other vessels.

Rate of Port-due on vessels compelled by stress of weather to enter Port.

III. Provided that, when any vessel having left the said Port is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No Port-due on vessels compelled by stress of weather to re-enter Port.

IV. No



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No vessel to pay the Port-due oftener than once in sixty days.

IV. No vessel shall be required to pay the Port-due chargeable under this Act oftener than once in sixty days.

Commencement of Act.

Rates of Port-dues to be published.

No Port-due to be levied except under Act.

V. This Act shall commence and have effect from and after the 1st day of August 1860; and the local Government shall on or before that date, pursuant to Section XLII Act XXII of 1855, declare, by notification to be published in the Calcutta Gazette, the rates at which Port-dues shall be levied in the said Port subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port-due shall be levied at the said Port except under the authority of Act XXII of 1855 and of this Act.

Act to be read as part of Act XXII of 1855.

VI. This Act shall be read with and taken as a part of Act XXII of 1855.

# ACT No. XXVI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 31st May 1860.)*

*An Act to amend Act VIII of 1855 (relating to the office and duties of Administrator General.)*

WHEREAS it is expedient to amend Act VIII of 1855, relating to the office and duties of Administrator General; It is enacted as follows:—

Preamble.

I. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any Officer, Soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed on the whole five hundred Rupees, charging the estate with a commission of three per centum only. Provided always that it shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this Section.

Administrator General in certain cases to secure and distribute the estate and effects of Soldiers.

Proviso.

II. If in cases falling within Section XLIII of Act VIII of 1855, no person claiming to be entitled to a principal share of the effects of the deceased shall within three months obtain a certificate from the Administrator General under the said Section of the said Act, or letters of administration to the estate and effects of the deceased, the Administrator General may administer the estate without letters of administration in the same

Grant of certificate to creditors.

ACT No. XXVI OF 1860.

same manner as if such letters of administration had been granted to him, and if he shall neglect or refuse to take upon himself the administration of the estate and effects, he shall upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a principal share of the effects of the deceased, and such certificate shall have the same effect as a certificate granted under the provisions of the said Section of the said Act, and shall be subject to all the provisions of the said Act which are applicable to such certificate. Provided that the Administrator General may; before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

III. Whenever any person holding the Office of Administrator General shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Administrator General, and such person while so officiating shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law now in force or that may hereafter be enacted, and he shall be deemed to be Administrator General for the time being under Act VIII of 1855, and shall be liable to give security under Section VII of the said Act in like manner as if he had been appointed Administrator General.

Appointment of Officiating Administrator General.

ACT No. XXVII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 25th June, 1860.)

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

WHEREAS it is expedient to consolidate and amend certain Acts now in force which 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 which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same; It is enacted as follows:—

I. Act XX of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*): so much of Act VIII of 1842 as relates to the said Act XX of 1841: Act X of 1851 (*to amend Act XX of 1841 for the administration of personal estate of deceased persons*): and Act VIII of 1854 (*to explain and amend Act X of 1851 and Act XX of 1841*) are hereby repealed; except as to certificates granted and acts done under the authority of the said laws before the passing of this Act.

II. No debtor of any deceased person shall be compelled in any Court 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 or letters of administration, unless the Court shall be of opinion that

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that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

III. The District Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then 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 Court 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.

IV. The certificate of the District Court 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.

V. The Court may take such security as it shall think necessary from any person to whom it 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.

VI. The granting of such certificate may be suspended by an appeal to the Sudder Court, 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 Court, grant a fresh certificate in supersession of the certificate granted by the District Court. 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.

VII. Every

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VII. Every certificate shall give authority to the person to whom the same is granted 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.

VIII. If the estate of the deceased shall include any Government Securities or Bank-shares, or any shares in any public Company, the certificate may empower the person certified as aforesaid to receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them; in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

IX. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government Securities as the representatives of any deceased person, the District Court, whenever sufficient cause shall be shown, and on the request of any such claimant, may, so far as concerns the said securities, grant a certificate under this Act to such person as shall be from time to time appointed by the local Government to act as trustee under this Section, and shall specify in such certificate the several persons appearing to him to be such proprietors and their several shares; and the said trustee by virtue of such certificate shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the local Government shall think fit. Provided nevertheless that the right of any other person to recover the whole or any part of the monies so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

X. If any such disputes among persons claiming to be proprietors of Government Securities are not ended within two years from the date of the certificate granted, under the last preceding Section, the said trustee may apportion the principal sum of the

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of the said securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper Officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such Government Securities, and the receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued. Provided always that, if the amount of any Government Securities in dispute or any part thereof shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

Proviso.

XI. Every certificate granted to the trustee appointed under Section IX, shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government Securities.

Effect of certificate granted by trustee.

XII. When 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 latter certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under certificate void by reason of previous certificate.

XIII. With regard to the property of a deceased Hindoo, Mahomedan, or other person not usually designated by the term "British subject," 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.

Certificate in respect of property of deceased Hindoos, Mahomedans, &c., void after grant of probate or letters.

XIV. Where

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XIV. 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.

Certain payments under certificate granted after grant of probate or letters, protected.

XV. 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 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.

Probate or letters void after grant of certificate.

Proviso.

XVI. 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.

Certain payments under probate or letters, granted after grant of certificate, protected.

XVII. Curators appointed under Act XIX of 1841 who may be invested with certain powers which are conferred on persons obtaining certificates under this Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to 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 Court 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.

XVIII. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of administration, shall have the effect of probate and letters

Effect of probates and letters granted to representatives of British subjects."

of



ACT No. XXVII OF 1860.

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.

**XIX.** A certificate of administration granted by the British Representative accredited to any Foreign Prince or State, shall, as regards the residents within the Territories of such Prince or State, have the same effect in respect to Government Securities as a certificate granted to a Native subject of Her Majesty under the provisions hereinbefore contained.

*Effect of certificates granted by British Representatives in Foreign States.*

**XX.** Every certificate of administration granted under the last preceding Section shall, as regards the Government Securities, give authority to the person to whom the same shall be granted throughout the British Territories in India, and have the same effect throughout the said territories as a certificate granted under Section VII of this Act has within the Presidency within which the same is granted.

*Local extent of power given by such certificates.*

**XXI.** Any Court or Officer authorized to grant a certificate may from time to time extend the same to any Government Security or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government Security or Bank share to which the certificate shall be extended had been originally specified therein.

*Extension of certificate.*

**XXII.** Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

*Security upon extension.*

**XXIII.** Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

*Act not to apply to British subjects.*

**XXIV.** The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

*Intpretation.*

Words

ACT No. XXVII OF 1860.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Gender.

Words importing the masculine gender shall include females.

“ District Court.”

The words “ District Court” shall mean the principal Civil Court of original jurisdiction of a Zillah or District.

“ Sudder Court.”

Sudder Court..

The words “ Sudder Court” shall be deemed to include the highest Civil Court of Appeal in any part of the British Territories in India not subject to the control and superintendence of a

# ACT No. XXVIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 29th June 1860.)

*An Act for the establishment and maintenance of Boundary Marks, and for facilitating the settlement of Boundary Disputes in the Presidency of Fort Saint George.*

WHEREAS it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the public revenue in the Presidency of Fort Saint George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, and for facilitating the settlement of Boundary disputes and claims; It is enacted as follows:—

Preamble.

Repeal of Act XX of 1855.

I. Act XX of 1855 is hereby repealed.

II. It shall be lawful within the said Presidency for a Collector of Land Revenue, or person exercising the powers of Collector, or for any Revenue Settlement Officer, and also for any other Officer appointed by the Government for the purpose, whenever he may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes (or for conducting and perpetuating a survey or a settlement of land revenue), to fix the boundaries of fields, holdings, estates, or villages, and to require the owner or occupant of the field, holding, or estate, or the headman (by whatever name designated) of the village, to clear the boundary line where overgrown with jungle, and also to set up, form, and maintain Boundary marks, of such materials, and in such number and manner, as may

Collector &c. to fix boundaries of fields &c., and to require owners or occupants to clear boundary line and form and maintain Boundary marks, &c.

a

be

ACT No. XXVIII OF 1860.

be determined by such Officer under the direction of the Board of Revenue, or of the Director of Revenue Settlement, as the case may be, to be sufficient to distinguish the limits of the field, holding, estate, or village.

III. It shall further be lawful for such Officer aforesaid to call upon the Collector to call upon owners or occupants to register and produce title deeds before survey. owners or occupants of lands about to be surveyed, and also on all persons claiming to have any rights or interests in such lands, to register the rights and titles exercised or claimed by them in the lands, and to produce before him for inspection and registry all grants, title deeds, and other documents connected with their claims.

IV. Any occupant or owner of land or other person whose attendance may be considered necessary for the purposes of this Act, who, on being summoned by such Officer aforesaid, shall refuse or fail to attend at the demarcation, measurement, or assessment of his field, holding, or estate, or for the determining and marking the village boundary, or for the investigation and registry of his rights and claims in relation to such holding, estate, or property, or for the investigation and determination of any boundary—and any person who shall wilfully make any false statement, or shall wilfully refuse or neglect, when called upon, to give any information in his power with respect to a boundary under enquiry—shall be liable, by order of such Officer aforesaid, to a fine not exceeding fifty Rupees, to be levied by warrant under the hand of the Officer imposing it, in the same manner as a fine imposed by a Magistrate for a misdemeanor, and with a like alternative of imprisonment in default, as defined in Act II of 1839.

V. When a survey is in progress notices shall be served on the persons owning or occupying the fields, holdings, estates, or villages concerned, requiring them to clear the boundaries, and to set up, form, or repair, or to render such aid and labor as may be necessary to form or repair under the supervision of the Government Officers, such boundary marks as may be required, within a reasonable time; and in the event of such persons not being found in their village, the notice shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the said notice.

VI. In

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VI. In default of the owners or occupants of the fields, holdings, estates, or villages complying with such requisition, the said Officer may give directions for the erection and repair of the necessary Boundary marks, the cost of which shall be equitably apportioned on the fields, holdings, estates, or villages which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates, or villages, in such manner as such Officer aforesaid may consider just, and shall be levied in the same manner as arrears of land revenue.

VII. Whenever such owners or occupants of any fields, villages, holdings, or estates, may generally signify their wish for the Boundary marks to be erected on the part of Government and the cost to be charged to them; or where in arrangements for the demarcation of the general survey of a village, estate, talook, or district, it may appear to such Officer aforesaid to be desirable to undertake the demarcation of lands under a uniform system by the Officers of Government, the Officer aforesaid may proceed, without the previous notice prescribed in Section V, to the clearing of boundaries, and the erection and repair of the Boundary marks, and may recover the cost of the same, if unpaid, in the manner described in Section VI.

VIII. In the case of unoccupied fields, and of extensive hills and jungles in Government lands, the cost of marks for such fields, hills, and jungles, shall be charged to Government.

IX. Any person convicted before a Magistrate or person exercising Magisterial powers of wilfully and without lawful excuse erasing, altering, removing, or injuring any Boundary marks whatsoever, whether established under this Act or otherwise existing, or any survey or other marks, or any marks set up for the purpose of the investigation or adjudication of disputes by an Officer of Government or any person acting under his orders, shall be liable to a fine not exceeding fifty Rupees for each mark so erased, removed, or injured, of which fine a portion not exceeding one-half may be awarded to the informer, and the remainder shall be chargeable with the cost of restoring the mark; the fine to be levied in the mode prescribed above in Section IV. Provided always that a Magisterial Officer shall have power to impose a fine under this Clause only to the amount to which he is competent to fine in misdemeanors.

In default of compliance, Officer may order erection or repair of necessary marks at the expense of the owners or occupants.

Procedure when owners or occupants require erection of boundary marks at their expense.

In the case of unoccupied fields &c., cost to be charged to Government.

Penalty for erasing, &c, marks—a portion of which to be paid to informer.

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misdemeanors

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misdemeanors under his general powers. Whenever it may not be possible to detect the person who erased, altered, removed, or injured such boundary or survey marks, the Officer as aforesaid may give directions for the restoration or repair of the marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands in such shares as may appear to him proper, or apportioned among the Ryots of the village in proportion to their land assessment, as he may consider just and equitable, the same to be levied in the manner prescribed above in Section VI.

Costs how to be recovered when offender is not known or unable to pay the fine.  
X. If the parties interested in boundaries under dispute are desirous that the matter shall be referred to the final decision of one or more arbitrators, they may apply in writing to the Settlement or other Officer aforesaid either in person or by their agents especially authorized on their behalf, and the Settlement or other Officer aforesaid shall proceed to dispose of the case as hereafter provided.

Application for reference to arbitration.  
XI. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Settlement or other Officer aforesaid, such Officer shall appoint the arbitrator or arbitrators.

Nomination and appointment of arbitrators.  
XII. Where an equal number of arbitrators shall be appointed on each side, they shall collectively appoint another arbitrator to act with them, or in the event of their not agreeing or failing to appoint such further arbitrator, he shall be appointed by the Settlement or other Officer aforesaid—and in all matters the majority shall rule, the decision.

Majority of arbitrators to rule the decision.  
XIII. The Settlement or other Officer aforesaid shall, by an order under his signature, refer to the arbitrator or arbitrators the matters in dispute which he or they may be required to determine, and shall fix such time as he may think reasonable for the delivery of the award, the time so fixed being specified in the order.

Order of reference.  
XIV. When

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XIV. When a reference is made to arbitration by an order of the Settlement or other Officer, such Officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the person so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

XV. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Settlement or other Officer aforesaid may enlarge the period for the delivery of the award, if he shall think proper. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Settlement or such other Officer aforesaid, unless the award shall have been made after the issue of an order by the Settlement or other Officer aforesaid superseding the arbitration and revoking the institution of the enquiry.

XVI. If, in any case of reference to arbitration by an order of the Settlement or other Officer, the arbitrator or arbitrators shall die, or refuse, or become incapable to act, it shall be lawful for the Settlement or other Officer to appoint a new arbitrator or arbitrators in the place of the person or persons so dying, or refusing or becoming incapable to act.

XVII. When an award in any matter referred to arbitration shall be made, it shall be submitted to the Settlement or other Officer aforesaid under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and other records, or authenticated copies thereof relating to the matter.

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XVIII. The Settlement or other Officer may, on the application of either party, modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision.

Settlement Officer may on application modify or correct an award in certain cases.

XIX. In any of the following cases the Settlement or other Officer aforesaid shall have power to remit the award or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators upon such terms as he may think proper: (that is to say)—

In what cases Settlement Officer may remit the award or any of the matters referred to arbitration, for re-consideration.

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

If the award is so indefinite as to be incapable of execution;

If an objection to the legality of the award is apparent upon the face of the award.

XX. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators. Any application to set aside an award shall be made within ten days after the same has been submitted to the Settlement or other Officer aforesaid.

Award not to be set aside except on ground of corruption.  
Application to set aside the award.

XXI. If the Settlement or other Officer aforesaid shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid, and if no application shall have been made to set aside the award, or if the Settlement or other Officer as aforesaid shall have refused such application, the Settlement or other Officer aforesaid shall proceed to pass a decision according to the award, and after duly furnishing the parties with a copy thereof, he shall proceed to mark out the boundary in accordance therewith subject to the provisions contained in this Act. In every case the decision given according to the award shall be final

Boundary to be marked out according to award.

XXII. Where



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XXII. Where the claims and disputes relate to the occupancy of Ryots of Zemindary and Proprietary lands, the consent in writing of the Settlement or other Officer aforesaid on behalf of Government and of the Zemindars or Proprietors interested, shall be necessary for referring the disposal of such claims and disputes to arbitration, and the question of the disputed extent of such Zemindary estate shall be determined as between the Zemindar or Proprietor on one part, and the Government on the other, the Government being represented by the Collector, Settlement or other Officer aforesaid.

Reference to arbitration of claims and disputes regarding occupancy by Ryots of Zemindary lands, &c.

XXIII. The Settlement or other Officer aforesaid shall not be considered incompetent by virtue of his office to undertake the duty of an arbitrator in cases in which the conflicting parties may be desirous to nominate him as such.

Settlement Officer not incompetent to act as arbitrator.

XXIV. A certified copy of every decision passed in accordance with the award of arbitrators under this Act by such Officer aforesaid shall be forwarded by him to the Civil Court and be filed on its records.

A certified copy of every decision passed in accordance with the award, to be filed in the Civil Court.

XXV. Where the conflicting parties may not signify their agreement to refer the dispute to the final decision of arbitrators, or where any of the parties interested or concerned shall after due notice fail to attend for the investigation of the same, the Settlement or other Officer aforesaid shall proceed to investigate the claims, and in the case of any party failing to attend as aforesaid, shall make an *ex parte* investigation and after examination of the witnesses and documents shall record his decision, and the grounds for arriving at it, and after duly informing the parties of the same, he shall proceed to mark out the requisite boundaries in accordance with the decision, which, subject to the revision of the authority to whom the said Officer is immediately subordinate, shall be considered as the determination of all claims and disputes until set aside by a formal decree of a Civil Court. An appeal shall lie to the Civil Courts from this decision by regular suit, provided it be preferred within two calendar months from the passing of the same. Provided also that it shall be lawful for the Governor in Council, on just and reasonable cause for the same being shown, to extend the period for such appeal within such further period as may seem proper, and an order or endorsement

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endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the Civil Court to entertain such appeal beyond the limit above specified.

XXVI. The proceedings of Officers imposing charges or fines other than Magisterial, under Sections IV, VI, VII, and IX of this Act, shall be recorded in writing, and shall be subject to revision by the authorities to whom such Officers shall be immediately subordinate. An appeal shall also lie to the Board of Revenue or to the Director of Revenue Settlement, according to the authority to which the Officer imposing the charge or fine may be subordinate.

XXVII. All fines levied under this Act shall be carried to the credit of Government, except when otherwise provided.

XXVIII. It shall be lawful for all Officers of Survey and Assessment, Revenue Officers, or other persons appointed by the Government for the purpose of investigating, settling, or marking boundaries of fields, holdings, villages, and estates, or measuring and assessing the same, and for all persons acting in aid and under orders of such Officers, whenever it may be necessary in the performance of their duty—to enter, examine, or measure, without let or hindrance, all lands whatever, whether such lands be the property of Government or of private Companies or individuals; and such Officers aforesaid, as well as workmen or other persons acting in aid of and under their orders, are hereby indemnified for what they or any of them shall do under the provisions of this Act.

XXIX. If any person shall obstruct, molest, or in any way interfere with any public servant conducting the demarcation, measurement, or assessment of lands, or performing other duties provided for in this Act, such person shall be liable, on conviction before a Magistrate or person exercising Magisterial powers, to a fine not exceeding fifty Rupees, or in default, imprisonment not exceeding two months for the first offence, and for a repeated offence, to a fine not exceeding one hundred and fifty Rupees, or imprisonment not exceeding six months. Provided however that a Magisterial Officer shall have power to punish under this Clause, only to the extent to which he is empowered to punish in cases of ordinary misdemeanor, under his general powers.

XXX. It

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Government may invest any subordinate in the Revenue or Survey Department with powers under this Act.

this Act.

XXX. It shall be lawful for the Governor in Council to invest any of the Subordinates of the ordinary Revenue establishments, or of the Settlement or Survey Departments, with any portion of the powers conferred under

XXXI. Any Deputy Director of Revenue Settlement, being a Sub-Collector and Joint Magistrate, shall be competent to exercise within the District within which he shall be employed, any of the powers ordinarily exercised by a Sub-Collector and Joint Magistrate within his charge: provided however that such Deputy Director shall only have cognizance of cases and offences connected with the duties of the Survey or the Settlement Department. In cases coming under Regulation IX. 1822 of the Madras Code tried before a Deputy Director under this Section, the power of control and revision provided by Clause 3 Section III Regulation VII. 1828 of the same Code shall be exercised by the Director of Revenue Settlement.

Powers of Deputy Directors of Revenue Settlement.

XXXII. All Servants of the Survey and Settlement Departments shall be subject to the provisions of the said Regulations IX. 1822 and VII. 1828 of the Madras Code, and those Regulations shall apply to the Survey and Settlement Departments in the same way as they apply to the ordinary Revenue Department.

Servants of the Survey and Settlement Departments subject to Regulations IX. 1822 and VII. 1828.

Two preceding Sections to apply to all pending cases.

XXXIII. The provisions of the two preceding Sections shall apply to all cases not finally decided at the time of the passing of this Act.

ACT No. XXIX OF 1860.

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PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 30th June 1860.)*

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*An Act to continue in force Act XXVIII of 1857.*

WHEREAS it is expedient that Act XXVIII of 1857 (*relating to the importation, manufacture, and sale of Arms and Ammunition and for regulating the right to keep or use the same*) should continue in force for a further period of one month; It is enacted as follows:—

Preamble.

Act XXVIII of 1857  
continued for one month.

I. Act XXVIII of 1857 shall continue in force for a further period of one Calendar month from the 30th June 1860.

# ACT No. XXX OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 5th July 1860.)

*An Act to remove the Pergunnahs of Koonch and Calpee in Zillah Jaloun from the operation of the general Regulations.*

WHEREAS the Zillah of Jaloun, with the exception of the Pergunnahs of Koonch and Calpee, has never been brought under the operation of the general Regulations; and whereas it is expedient that those Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the Zillah; It is enacted as follows:—

I. Regulation VIII. 1805 of the Bengal Code (*for extending to the conquered Provinces situated within the Dooab, and on the right bank of the river Jumna, and to the Territory ceded to the Honorable the English East India Company in Bundelkund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations*), in so far as it relates to the Pergunnahs of Koonch and Calpee in the Zillah of Jaloun, is hereby repealed, and the said Pergunnahs shall be subject to the same Laws as are now or may hereafter be in force in the said Zillah.

II. All suits and proceedings which, at the time of the passing of this Act, shall be pending in any Court or before any Officer in the said Pergunnahs, shall be heard and determined in the same manner as if the said Pergunnahs had never been brought under the operation of the general Regulations.

III. Any

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III. Any suit which, before the passing of this Act, had been determined and which hath been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Suits determined before the passing of this Act, but which may be remanded by an Appellate Court.

IV. All appeals or proceedings now pending in the Court of Sudder Dewanny Adawlut or in the Court of Nizamut Adawlut or before the Sudder Board of Revenue for the North-Western Provinces, shall be determined by such Court or Board in the same manner as if this Act had not been passed ; and all applications for execution of decrees or orders which, but for the passing of this Act, would have been made to any Court or Officer existing at the period abovementioned, shall be made to the Court or Officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

Appeals or proceedings pending before the Sudder Court or Sudder Board.

Applications for execution of decrees or orders in pending suits or proceedings.

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard, and determined by the Courts or Officers who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

New appeals from decrees or orders passed before the passing of this Act.

# ACT No. XXXI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 17th July 1860.)

*An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.*

WHEREAS it is expedient to regulate the manufacture, importation, and sale of Arms and Ammunition and the right to keep and use the same, and also to give power of disarming Districts and places in certain cases ; It is enacted as follows :—

I. Act XXVIII of 1857 shall continue in force until the 1st day of October 1860.

Act XXVIII of 1857 continued in force till 1st October 1860.

II. No person in India, unless authorized by Government, shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, and whoever not being so authorized shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, shall be liable to a fine not exceeding one thousand Rupees, and to imprisonment with or without hard labor for a period not exceeding three years.

Manufacture of cannon &c. without authority of Government prohibited.

Penalty.

III. If any person in India shall, without the permission of the local Government, have in his possession any cannon, howitzer, or mortar, except in the course of his duty as a public Officer of Government, he shall be liable to a fine not exceeding

Penalty for possession of cannon &c. without permission.

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exceeding five hundred Rupees for every such cannon, howitzer, or mortar, and in default of payment thereof may be imprisoned with or without hard labor for a period not exceeding one year. The provisions of this Section shall not extend to any cannon, howitzer, or mortar, forming part of the ordinary armament of any ship or vessel.

Exception.

IV. Whenever the local Government shall permit any person to possess any cannon, howitzer, or mortar, such permission shall be in writing and signed by the Secretary to the Government, and shall specify the number of cannon, howitzers, or mortars permitted to be possessed by such person. A fee of fifty Rupees shall be paid on the delivery of such written permission.

Permission to possess cannon, &c., to be in writing, and to specify number permitted to be possessed.

V. No person shall manufacture, repair, or sell, or keep or expose for sale, any arms of the description hereinafter mentioned, or shall manufacture or sell, or keep or expose for sale, percussion caps, sulphur, gunpowder, or other ammunition, except under a license to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition, as the case may be, and any person who shall manufacture, repair, sell, or keep or expose for sale, any of such arms, or any percussion caps, sulphur, gunpowder, or other ammunition without such license as aforesaid, or contrary to any of the conditions contained in such license, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and all arms, percussion caps, sulphur, gunpowder, or other ammunition belonging to the offender shall be forfeited if the Court or Officer before whom the offender is convicted shall so adjudge.

Manufacturing or dealing in arms and ammunition without license prohibited.

Penalty.

Specification of arms referred to in Section V. and spear head.

VI. The following are the arms referred to in Section V; namely, fire-arms, bayonet, sword, dagger, spear,

VII. Licenses to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition may be granted by a Magistrate, or by an Officer authorized by the Governor-General of India in Council or by the Executive Government to grant such licenses.

Licenses by whom to be granted.

VIII. Licenses



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VIII. Licenses granted under the last preceding Section shall be in the form prescribed by the Governor-General of India in Council, and shall be engrossed on a stamp paper of the value of ten Rupees. The stamp paper shall be furnished by the person applying for the license. A separate license shall be taken out for the sale of sulphur.

IX. Every person to whom such license shall be granted shall affix a board in a conspicuous part of his shop or usual place of business, and shall cause to be painted thereon in large letters in the vernacular of the District the words "Licensed to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition," as the case may be.

X. If any person to whom such license shall be granted shall omit to put up a board inscribed as above in a conspicuous part of his shop or usual place of business, he shall be liable to a fine not exceeding one hundred Rupees.

XI. If any person, to whom such license shall not have been granted in the manner prescribed, shall put up such board as aforesaid in his shop or usual place of business, he shall be liable to a fine not exceeding one hundred Rupees.

XII. Licenses granted under Section VII of this Act shall be in force for one year from the date thereof.

XIII. Any person knowingly purchasing arms of the description mentioned in Section VI or any percussion caps, sulphur, gunpowder, or other ammunition from any person not licensed, shall be liable to a fine not exceeding one hundred Rupees.

XIV. Every person licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, shall enter in a book to be kept by him for that purpose, an account of all the stock-in-trade which he may from time to time have in his possession or under his control, and also the name and address of every purchaser of arms, percussion caps, sulphur, gunpowder, or other ammunition sold by him, together with the nature, description, and

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and quantity of such arms, percussion caps, sulphur, gunpowder, or other ammunition. Such book shall be open at all times to inspection by the Magistrate or other Officer duly authorized by Government in that behalf, by whom copies may be taken of all entries therein contained. If any such person shall omit or fail duly to keep such book, or to make therein all such entries as are hereby required, or if any person shall prevent or obstruct the inspection of such book or shall make a false entry therein, he shall be liable for every such offence to a fine not exceeding five hundred Rupees, in addition to double the value of any arms, percussion caps, sulphur, gunpowder, or other ammunition sold of which he shall fail to make such entry or respecting which he shall make a false entry; and if the offender be licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, he shall also forfeit his license if the Magistrate shall so adjudge.

**XV.** The Magistrate or other Officer authorized by Government as aforesaid may at any time enter the premises in which arms, percussion caps, sulphur, gunpowder, or other ammunition shall be manufactured or kept by any licensed manufacturer or dealer in arms or percussion caps, sulphur, gunpowder, or other ammunition, in order to inspect the stock-in-trade of such manufacturer or dealer, and if any such manufacturer or dealer shall intentionally conceal from such Magistrate or other Officer as aforesaid any part of his stock-in-trade, or shall wilfully refuse to point out where the same is kept, he shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and any arms, percussion caps, sulphur, gunpowder, or other ammunition belonging to such person may be seized and shall be confiscated if the Magistrate shall so adjudge.

**XVI.** Any license granted under the provisions of Section VII may be granted subject to such conditions as shall be thought necessary, and may be revoked or suspended by the Officer authorized to grant such licenses whenever he may think fit.

**XVII.** No cannon, howitzer, or mortar, and no arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, shall be imported either by sea or by land into any part of the territories in the possession and under the Government of India

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India except under a license from the Governor-General of India in Council or from some Officer authorized in that behalf by the Governor-General of India in Council.

**XVIII.** If any person shall import or attempt to import without such license either by sea or by land into any part of the said territories, any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, or shall aid or assist in such importation or in such attempt to import, or shall knowingly conceal or assist in concealing any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, imported without such license, he shall be liable to imprisonment with or without hard labor for any term not exceeding three years, and also to a fine not exceeding one thousand Rupees, and the articles so imported shall be confiscated if the Magistrate shall so adjudge.

**XIX.** The provisions of the last two preceding Sections shall not extend to arms, percussion caps, gunpowder, and other ammunition imported by any person in reasonable quantities for his own private use; but the Collector of Customs may at any time detain any such articles, if he shall think it necessary, until he shall receive the orders of Government.

**XX.** The Governor-General of India in Council or the local Government may at any time seize all sulphur in the possession of any person, and detain the same for such time as they may deem necessary for the public safety.

**XXI.** Nothing in this Act shall apply to sulphur kept or sold in reasonable quantities for medicinal purposes.

**XXII.** The Governor-General of India in Council may by order prohibit the transport of any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, or any particular description of arms, ammunition, or military stores from one part of India to another, or the transport thereof in any particular direction to be specified in the order, or prohibit the transport thereof except according to such rules and conditions as may be specified in the order, and the local Government of

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any Presidency or place shall have the like power within the territories under its Government.

**XXIII.** If any person shall transport or cause to be transported or shall attempt to transport or cause to be transported, or shall aid in transporting any arms, military stores, lead, sulphur, salt-petre, gunpowder, or other ammunition, contrary to such order, or to the rules and conditions specified therein, he shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding three years, or to both fine and imprisonment, and the articles transported or attempted to be transported shall be confiscated. If any person shall by concealment or other device transport or cause to be transported, or attempt to transport or cause to be transported, such arms, military stores, lead, sulphur, salt-petre, gunpowder, or other ammunition, he shall, in addition to the fine hereby provided, be liable, upon conviction, to imprisonment with or without hard labor for a term not exceeding seven years.

**XXIV.** Nothing in the last two preceding Sections shall extend to arms, percussion caps, gunpowder, and other ammunition transported by any person in reasonable quantities for his own private use in any District or place not ordered or liable to be disarmed under Section XXXII of this Act.

**XXV.** If any person shall be found carrying or conveying any arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, in such a manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by such person with intent to use the same, or that the same may be used for any unlawful purpose dangerous to the public peace, it shall be lawful for any Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, or for any other person, to apprehend without warrant the person so carrying or conveying such arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, and to detain such person in custody in order that he may be dealt with according to law.

If any person be apprehended by a person not being a Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, he shall be delivered over as soon as possible to a Police Officer; and all persons apprehended by or delivered to a Police Officer under the provisions of this Section shall be carried before a Magistrate

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Magistrate or other Officer competent by law to punish him for the offence or to commit him for trial.

**XXVI.** If any person shall go armed with or carry any arms of the description mentioned in Section VI of this Act without having obtained a license from a Magistrate or other Officer authorized by the Governor-General of India in Council or the local Government authorizing him to carry arms, he shall be liable to be disarmed by any Magistrate, Joint Magistrate, or Deputy Magistrate, or Assistant to a Magistrate, or by a Police Officer, if in the judgment of such Magistrate or other Officer as aforesaid it is dangerous to the public peace to allow such person to go armed or to carry arms.

Penalty for going armed or carrying arms without a license.

Exemptions.

**XXVII.** The provisions of the last two Sections do not apply to—

Officers, Non-Commissioned Officers, Warrant Officers, Soldiers, and Sailors in the Military or Naval Service of Her Majesty, in respect of arms and ammunition kept by them for use in the public service.

Commissioned, Non-Commissioned, and Warrant Officers, Soldiers, and Sailors.

Volunteers.

Members of Volunteer Corps in respect of such arms and ammunition.

Police and Revenue Officers and other persons in respect of arms and ammunition furnished by Government for use in the public service or provided by themselves with the sanction of Government for such use.

Police and Revenue Officers.

Other persons.

Such other persons as the local Government may think fit to exempt from such provisions.

**XXVIII.** Licenses to carry arms may be granted by any Magistrate or other Officer specially authorized by the Governor-General of India in Council or the local Government to grant such licenses, and may be revoked or suspended by any Officer authorized to grant such license whenever he may think fit.

Grant and revocation or suspension of licenses to carry arms.

Form of license.

**XXIX.** The license shall be in the form prescribed by the Governor-General of India in Council.

**XXX.** The

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XXX. The license shall state whether its operation is limited to the person in whose favor it is granted and whom it shall mention by name, or whether it extends to any of his followers. In the latter case the number of the followers of such person licensed to carry arms and the number and description of arms to be carried by each of such followers shall be specified.

License to state name of grantee, and number of followers to whom it is to apply.

XXXI. Whenever a Magistrate shall have reason to believe that any person residing within the limits of his jurisdiction has in his possession any arms of the description mentioned in Section VI of this Act, or percussion caps, sulphur, gunpowder, or other ammunition for any unlawful purpose or that such person cannot in the judgment of the Magistrate be left in the possession of any such arms, percussion caps, sulphur, gunpowder, or other ammunition without danger to the public peace, it shall be lawful for such Magistrate, having first recorded the grounds of his belief, to cause a search to be made of the house or premises occupied by such person or on which the Magistrate may have reason to believe such arms, percussion caps, sulphur, gunpowder, or other ammunition are to be found, and to seize and to detain the same in safe custody for such time as he may deem necessary. The search in such case shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate, or a European Assistant, or by or in the presence of some European Officer, Civil or Military, to be specially empowered by Government.

Search and seizure of arms and ammunition in certain cases.

XXXII. *Clause 1.* It shall be lawful for the Governor-General of India in Council or for the Executive Government of any Presidency or for any Lieutenant Governor, or with the sanction of the Governor-General in Council for the Chief Commissioner or Commissioner of any Province, District, or place subject to their administration respectively, whenever it shall appear necessary for the public safety, to order that any Province, District, or place shall be disarmed.

Executive Government may order any District or place to be disarmed.

*Clause 2.* In every such Province, District, or place as well as in any Province, District, or place in which an order for a general search for arms has been issued and is still in operation under Act XXVIII of 1857, it shall not be lawful for any person to have in his possession any arms of the description mentioned in Section VI of this Act, or any percussion caps, sulphur, gunpowder, or other ammunition without a license.

Possession of arms and ammunition without license prohibited.

*Clause 3. Licenses*

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*Clause 3.* Licenses to have in possession any arms of the description mentioned in Section VI or percussion caps, sulphur, gunpowder, or other ammunition may be granted by any Magistrate or other Officer specially authorized by the Governor-General of India in Council or the local Government to grant such licenses, and may be revoked or suspended by any Officer authorized to grant such licenses whenever he may think fit. The license shall be in the form prescribed by the Governor-General of India in Council or by the local Government.

Grant of licenses, &c.

*Clause 4.* If any person shall have a license from the Magistrate of the District or place at which he resides, or may be, to carry on a journey such arms as the Magistrate may consider reasonable for his private use, and shall obtain from such Magistrate a license stating the name and address of such person, the route by which he intends to proceed, the time which such journey is expected to occupy, and the arms which he is permitted to carry, such license shall have the same force and effect, according to its tenor, in every District or place specified therein, as if leave to go armed had been granted by the Magistrate of such District or place.

License to travellers to carry arms.

*Clause 5.* In every Province, District, or place which shall be ordered to be disarmed, the order of the Governor-General of India in Council or of the local Government shall be published in the Calcutta Gazette or in the Gazette in which the orders of the Governor-General of India in Council or of the local Government making the order, as the case may be, are usually published, and shall also be made public in such other manner as the Governor-General of India in Council or the local Government shall direct.

Publication of order for disarming.

*Clause 6.* Every person who, after the expiration of the time mentioned in such order in any Province, District, or place to which this Section shall be extended, or who after the 1st day of October 1860 in any Province, District, or place in which an order for a general search for arms has been issued and is still in operation as aforesaid, shall have in his possession or custody any such arms as aforesaid or any percussion caps, sulphur, gunpowder, or other ammunition without such license as aforesaid, shall be liable to be imprisoned with or without hard labor, for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees, and it shall be lawful for the Magistrate or other Officer mentioned in the order to search or cause to be searched any house or premises occupied by such person, or in which the

Penalty.

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the

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- the Magistrate may have reason to believe that any such arms, percussion caps, sulphur, gunpowder, or other ammunition are concealed

*Clause 7* The search shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate or European Assistant, or by or in the presence of some European Officer, Civil or Military, appointed by Government to conduct such searches ; and all such arms, percussion caps, sulphur, gunpowder, and other ammunition found on such search shall be confiscated.

*Clause 8.* The provisions of this Section shall not extend to any person or persons exempted by the authority of the Governor-General of India in Council or of the local Government of the proclaimed District, or by any European Officer serving in such District duly authorized by the local Government on that behalf.

**XXXIII.** If on any such search being made under the provisions of either of the last two Sections, any person having in his possession or power any such arms, percussion caps, sulphur, gunpowder, or other ammunition, or knowing where such arms, percussion caps, sulphur, gunpowder, or other ammunition are concealed, shall refuse to produce or point out the same to the Officer making the search, or if any person shall intentionally conceal or attempt to conceal any such arms, percussion caps, sulphur, gunpowder, or other ammunition, such person may be apprehended without warrant, and shall be liable to imprisonment with or without hard labor for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees.

**XXXIV** Whoever assaults or resists, or aids or assists any person in assaulting or resisting any person in the execution of any power vested in him by this Act, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six calendar months, or to both fine and imprisonment.

**XXXV.** Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable exceed that which



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the Magistrate, Joint Magistrate, or other Officer as aforesaid is competent to award under the laws for the time being in force in the Presidency or place in which such Magistrate, Joint Magistrate, or other Officer as aforesaid is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other Officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given before such Magistrate, Joint Magistrate, or other Officer as aforesaid shall appear to such Magistrate, Joint Magistrate, or other Officer sufficient for the conviction of the accused.

**XXXVI.** Except as aforesaid, all offences declared to be punishable under this Act with fine, or fine and imprisonment, may be tried in the District or place in which the offence was committed, or in which the person charged with the same is apprehended.

District in which certain offences shall be tried

**XXXVII.** A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants, and in such case every such Assistant may exercise all the powers vested in a Magistrate by any law for the time being in force, subject to all the rules applicable to criminal cases deputed to such Assistant acting judicially.

Magistrate may refer offences punishable with fine to his Assistants for trial.

**XXXVIII.** The local Government may give general authority to any such Assistant to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant within one month from the date of conviction.

Local Government may authorize Assistants to exercise such powers without reference by Magistrate

**XXXIX.** A Magistrate may at any time call from any of his Assistants, any case pending before such Assistants.

Magistrate may call for any case pending before such Assistant

**XL** If any offence which by this Act is declared to be punishable with fine and imprisonment, or imprisonment only, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender shall be liable, upon conviction before one of the said Supreme Courts

Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.

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Courts of Judicature, to the punishment to which by this Act the offender is declared to be liable upon conviction.

**XLI.** If any offence which by this Act is declared to be punishable with fine or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, such offence shall be punishable upon summary conviction by any Police Magistrate of the Presidency Town or Station in which such Court is held.

Summary jurisdiction in respect of certain offences committed within the limits of Supreme Court.

**XLII.** No conviction, order, or judgment under the last preceding Section shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken, supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only.

**XLIII.** All other offences punishable under this Act which shall be committed within the local limits of any Court of Judicature established by Royal Charter, shall be punishable by such Court.

All other offences committed within limits of Supreme Court punishable by such Court.

**XLIV.** All forfeitures or penalties imposed under the authority of this Act for offences punishable by any Magistrate of Police or by any Magistrate, or person lawfully exercising the powers of a Magistrate, or Assistant Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of any of the abovenamed Officers.

Levy of forfeiture and penalties by distress.

**XLV.** In case any such forfeitures or penalties shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Procedure until return is made to warrant of distress.

**XLVI.** If

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**XLVI.** If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

**XLVII.** If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

**XLVIII.** Any fine or penalty levied from any person convicted of an offence under this Act, or any portion of such fine or penalty, may be awarded to the person on whose information the conviction shall take place.

**XLIX.** No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

**L.** It shall be lawful for the Governor-General of India in Council or for the Executive Government of any Presidency or for any Lieutenant-Governor, or with the sanction of the Governor-General of India in Council for any Chief Commissioner of any Province from time to time to withdraw from the operation

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of all or any of the provisions of this Act any part or parts of any District or place; and in like manner, as occasion shall require, to subject the same again to the operation of all or any of the provisions of this Act.

Act not intended to alter or affect any other law relating to licenses.

LI. Nothing in this Act shall be construed to alter or affect the provisions of any law or other Regulation for the time being in force relating to Licenses. •

LII. Whenever an award of hard labor is made under this Act the Court shall not commute such labor to the payment of a fine under Regulation II. 1834 of the Bengal Code.  
Award of hard labor not commutable to fine.

LIII. All licenses which may by this Act be granted by a Magistrate may in the Presidency Towns be granted by a Commissioner of Police.  
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LIV. The word "India" in this Act shall mean the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."  
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LV. The first Section of this Act shall take effect from the passing thereof and all the rest of this Act shall take effect from and after the 1st day of October 1860. This Act shall continue in force for five years from the said 1st day of October.  
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# INCOME TAX ACT.

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ACT No. XXXII OF 1860. ✓

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th July 1860.)

*An Act for imposing Duties on Profits arising from Property, Professions, Trades, and Offices.*

PART I.

*Imposes Duties of 3 and 1 per Cent.*

I. FROM and after the 31st day of July 1860, there shall be collected and paid for the service of the Government of India, during the term herein limited, for and in respect of the property and profits mentioned in the several Schedules contained in this Act, and marked 1, 2, 3, and 4 respectively, the yearly Duty of three Rupees for every hundred Rupees of the annual value thereof, that is to say,

SCHEDULE 1.

For and in respect of the property in, and profits arising from, all lands and houses in India.

SCHEDULE 2.

For and in respect of the annual profits arising to any person residing in India from any kind of property whatever, whether situate in India, or elsewhere; and for and in respect of the annual profits arising to any person residing in India from any profession, trade, or employment, whether the same shall be carried on in India or elsewhere.

A.

And

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And for and in respect of the annual profits arising to any person whatever, whether a subject of Her Majesty or not, although not resident in India, from any property whatever in India, or any profession, trade, or employment carried on within India.

And for and in respect of all interest of money, annuities, and other annual profits arising to any person residing in India, or accruing and payable in India to any person, whether residing in India or not, not charged by virtue of any other Schedule of this Act.

SCHEDULE 3.

For and in respect of all profits arising from interest, annuities, or dividends, payable in India to any person, whether residing in India or elsewhere, out of the public Revenues of India.

SCHEDULE 4.

For and in respect of every public office or employment of profit in India, and every office or employment of profit in or under any Company in India, and upon every annuity, salary, or pension, payable to any person residing in India, or paid in India to or on account of any person whatever by the Government of India, except annuities charged to the Duty under Schedule 3.

Collection and payment  
of Duties.  
provided.

II. The Duties charged under this Act shall be assessed, collected, and paid under the Rules hereinafter

III. From and after the day aforesaid, there shall also be collected and paid, under the Rules contained in this Act, for the purposes hereinafter mentioned and described as roads, canals, or other reproductive public works, for and in respect of the property and profits mentioned in the said several four Schedules respectively, the further yearly Duty of one Rupee for every hundred Rupees of the annual value thereof.

IV. Upon every fractional part of one hundred Rupees of the annual value or amount of the property and profits aforesaid, the like proportion of Duty at the respective rates aforesaid shall be charged, but no Duty shall be charged of a less denomination than one anna.

Duty on fractional parts  
of 100 Rupees.

V. The

ACT No. XXXII of 1860.

V. The said Duties shall be charged and levied by yearly assessments, except in the cases hereinafter provided. Every assessment made under this Act within the year appointed for making the same, shall be deemed to be for the current year, and shall be in force for such year. And every assessment made after the expiration of any year in which the same ought to have been made, shall be deemed to be for the year when the assessment ought to have been made.

VI. Such year shall commence, for the first assessment, on the 1st day of August 1860, and for every subsequent assessment during the continuance of this Act on the 1st day of August in the year of such assessment.

PART II.

*Appointment of Officers for managing and assessing the Duties.*

VII. The Duties imposed by this Act shall, subject to the provisions of this Act, be under the direction and management of the Governor-General of India in Council, the several Governors, Lieutenant-Governors, and Chief Commissioners, for the time being in each Presidency, Lieutenant-Governorship, and Province. The said Governments and Authorities respectively are hereby empowered to do all such acts and things, subject as aforesaid, as may be deemed necessary for the collecting, receiving, and accounting for the said Duties throughout the respective Presidencies, Lieutenant-Governorships, and Provinces, for which the said Duties are assessed, in the like manner as they are authorized to do with relation to any other Duties or revenue under their care.

VIII. The Divisions and Districts of Revenue as already constituted, or as they shall be from time to time constituted, shall be made use of for the purposes of this Act, except in the cases hereinafter specified. The Presidency Towns and the Stations of the Straits Settlement shall be separate Districts for the purposes of this Act, and it shall be lawful for the local Government to add thereto any portions of the adjoining Districts of Revenue. In any such case each part of any such District so added to a Presidency Town or to a Station in the Straits Settlement shall, for all the purposes of this Act, be held and taken to be a part of such Presidency Town or such Station.

IX. The

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**IX.** The limits of the Presidency Towns and Stations of the Straits Settlement, with any addition of adjoining Districts made by the local Government, shall be defined by the local Government, and notified in the Official Gazette of the Presidency or Settlement. All persons subject to the provisions of this Act not resident in any of such Divisions or Districts of Revenue aforesaid, or in any Presidency Town, or any Station of the Straits Settlement, shall be deemed for the purposes of this Act to be within such Revenue jurisdiction, as the Governor-General of India in Council, by order to be published in the Calcutta Gazette, shall appoint.

Jurisdiction.

Commissioners to be appointed for the Presidency Towns and Straits Settlement.

**X.** In the Presidency Towns and Stations of the Straits Settlement, the local Government shall, from time to time, appoint persons to be Commissioners for the purposes of this Act.

**XI.** In the Presidency Towns the number of such Commissioners shall be not less than six, of whom not less than two shall be persons not in the service of Government; and in the Stations of the Straits Settlement, the number of such Commissioners shall be not less than three, of whom one shall be a person not in the service of Government. The local Government may grant to such Commissioners in the Presidency Towns and Stations in the Straits Settlement as may not be in the service of Government, such fee or remuneration as may be approved by the Governor-General of India in Council.

Number of Commissioners for the Presidency Towns and Straits Settlement.

**XII.** If any person not in the service of Government, having been so appointed, shall decline or neglect to act, it shall be lawful for the local Government to appoint any other person, whether in the service of Government or not, to be a Commissioner in lieu of the person so declining or neglecting.

If person not in the service of Government be appointed and refuse or neglect to act.

**XIII.** The Commissioners appointed under the last three preceding Sections shall hold the appointment for one year only, but it shall be in the discretion of the local Government, after the expiration of that period, to re-appoint any of them. It shall also be lawful for the local Government, at any time, to remove any of such Commissioners.

Duration of appointment, re-appointment, and removal of Commissioners appointed under the preceding Sections.

Quorum.

**XIV.** Any two of the Commissioners, one of them being an Officer of Government, shall form a quorum.

**XV.** The

ACT No. XXXII OF 1860.

XV. The senior Officer of Government in the Commission shall be President of the Commission. At every Meeting of the Commissioners at which such Officer shall not be present, the Senior Officer of Government present shall preside. If a difference of opinion shall arise, and the opinions shall be equally divided, the President of the Meeting shall have a casting vote.

XVI. For every Presidency Town and Station in the Straits Settlement, the local Government shall appoint an Officer in the service of Government on such salary as shall be approved by the Governor-General of India in Council, to be called the Special Commissioner, for the purpose of making assessments in the cases referred to him under the provisions hereinafter contained.

XVII. In each of the Presidency Towns and Stations of the Straits Settlement, the local Government may appoint, on such salaries as may be approved by the Governor-General of India in Council, such number of Assessors and such Ministerial and other Officers as may be deemed necessary for carrying out the provisions of this Act.

XVIII. Except in the Presidency Towns and the Stations of the Straits Settlement, the Collector of Land Revenue shall be entrusted with the execution of this Act, and the managing, levying, receiving, and accounting for the Duties imposed thereby, under the control of the ordinary Revenue Authorities to whom such Collector is subject in matters relating to the Land Revenue.

XIX. The Collector may, from time to time, whenever he shall think proper, associate with himself two or more persons, whether in the service of Government or not, to assist him in making assessments under this Act or in any proceeding held under the provisions of this Act.

XX. The local Government may appoint in any District one or more Deputy Collectors as Assessors, on such salaries as shall be approved by the Governor-General of India in Council, for the performance of the duties that may be performed by Assessors under this Act.

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**XXI.** The local Government may also entrust any person who may be now employed or may hereafter be employed as a Deputy Collector in the Revenue Department with the duties of an Assessor.

Appointment as Assessors of persons already employed as Deputy Collectors.

**XXII.** The Collector may empower any Deputy Collector, whether employed as an Assessor or not, subordinate to such Collector, to exercise all the powers conferred on such Collector by this Act in respect of assessments in cases of profits or income not exceeding one thousand Rupees a year, subject to appeal to such Collector in the event of surcharge by such Deputy Collector.

Powers of Deputy Collectors.

**XXIII.** The Collector may, with the sanction of the local Government, delegate to any Covenanted Officer or to any Deputy Collector whether employed as an Assessor or not, subordinate to such Collector, any of the powers or duties with which he is entrusted under this Act; but in exercising such powers and duties, such Covenanted Officer or Deputy Collector shall be subject to the direction and control of such Collector.

Delegation of powers and duties to Deputy Collectors.

**XXIV.** It shall be lawful for the local Government to authorize the Collector to appoint, on such salaries as shall be approved by the Governor-General of India in Council, such Assessors and Ministerial and other Officers as may be necessary for carrying out the provisions of this Act, subject to the same control and Regulations as in the other Departments of Revenue.

Appointment of Ministerial Officers by Collectors.

**XXV.** The Collector and Commissioners respectively may at his or their discretion exercise any of the functions that may be performed by Assessors.

Collector and Commissioners may exercise functions of Assessors.

PART III.

*Ex-Officio and Special Assessors for Government Securities and in Public Departments.*

**XXVI.** The Accountant General and the Sub-Treasurer of the Presidencies of Bengal, Madras, and Bombay respectively, and every Authority in charge of a Public Treasury and authorized to pay the interest on any security of the Government

Ex-Officio Assessors for Interest on Government Securities.

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Government of India, or any annuity payable out of the public revenue of India, shall be respectively Ex-Officio Assessors for executing this Act for the purpose of assessing and discharging the duties hereby imposed in respect of interest on securities of the Government of India, and of all annuities payable out of the revenues of India to any person whatever, at the places at which the said Officers respectively hold office; and in respect of all other yearly sums (other than the salaries or pensions mentioned in the five next succeeding Sections of this Act,) payable by the said Government, or out of the public revenue at the Government Treasuries at the said places respectively, and also in respect of all other profits chargeable with any Duty under this Act, and arising within any office or department under the management or control of, or the accounts of which are rendered to, or pass through the office of the said several Officers respectively.

XXVII. The several Officers entrusted with the duty of auditing the Civil salaries and allowances payable out of the public revenue, shall be respectively Ex-Officio Assessors for executing this Act for the purpose of assessing all such salaries and allowances payable to any person in the civil employment of the Government, or serving in any Civil Department, or for the payment of which the audit of any Civil Auditor is required and payable from the public revenue, by or upon the audit of such Officers respectively.

XXVIII. The several Officers charged with the duty of auditing any pay, salaries, or allowances payable to any Officer or person in Her Majesty's Army, or in her Majesty's Indian Military Forces, or in the Military employment of the Government, or serving in any Military Department, or for the payment of which the audit of any Military Auditor is required and payable out of any public revenue, shall be respectively Ex-Officio Assessors for executing this Act, for the purpose of assessing all pay, salaries, and allowances payable to any person in the Military employment of the Government, or serving in any Military Department, or for the payment of which the audit of a Military Auditor General is required, and payable from the public revenue upon the audit of such Officers respectively.

XXIX. The several Officers entrusted with the duty of auditing any pay, salaries, and allowances to any Officer or person in Her Majesty's Navy, or Indian Naval Forces, or in the Marine Service of, or in any Marine Department and employment under the Government



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Government, shall be Ex-Officio Assessors for executing this Act, in respect of all pay, salaries, and allowances payable to any person in Her Majesty's Navy or Indian Naval Forces or in the Marine Service of the Government, or serving in any such Marine Department and employment.

XXX. The several Collectors, Paymasters, and Officers charged with the audit and payment, or payment without audit, of pensions payable by the Government, shall be Ex-Officio Assessors for executing this Act in respect of all such pensions; and if the local Government shall think fit to appoint any other persons to act in that behalf, the persons so appointed shall be Special Assessors for executing this Act in respect of any of the pensions payable, or audited by such Paymasters and Officers respectively.

XXXI. Whenever it shall appear to the local Government necessary to appoint any Special Assessor for the purpose of executing any matter in relation to any of the Duties mentioned in Schedule 3 or Schedule 4 of this Act, in respect of which no provision has been herein made for the appointment of Assessors for the purpose of executing any matter in relation to the Duties mentioned in either of the said Schedules at any place not herein mentioned, it shall be lawful for the said local Government to appoint a Special Assessor for the special purpose of executing this Act in respect of such matter, and at such place.

XXXII. The Assessors appointed under the last six preceding Sections of this Act shall have authority to exercise and apply all the powers of this Act as fully and effectually as the Collector or Commissioners are authorized to exercise and apply the same, so far as the same relate to the said Duties, to be assessed by the said Assessors, and shall make their assessment of the said Duties subject to the Rules contained in this Act in respect of such Duties respectively, according to the several Schedules under which such Duties are chargeable.

XXXIII. Every Commissioner, Collector, or other Officer employed in making any assessment under this Act, shall, before acting in execution of this Act, take an oath of secrecy in a form to be prescribed as hereinafter mentioned by the Governor-General of India in Council.

XXXIV. In

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XXXIV. In the Presidency Towns and the Stations of the Straits Settlement, any one of the Commissioners, and in other places of Administration of Oaths, the Collector, is hereby authorized to administer such oath. The oath may be administered to the Collector by any other Officer of Government above the rank of a Deputy Collector.

PART IV.

*Mode of Assessment.*

XXXV. A record shall be kept of all the proceedings held by the Collector and Commissioners under this Act. Proceedings of Collector and Commissioners to be recorded.

XXXVI. The Collector and Commissioners shall assign to each Assessor such portion of the District in which such Assessor shall be employed, as may appear proper and shall fix the place or places at which the Assessor shall ordinarily hold his office. Apportionment of District among Assessors.

XXXVII. The Collector and Commissioners shall issue a general notice, requiring every person, liable to the Duties imposed by this Act, to fill in a return of his profits or income, in the form to be prescribed by the Governor-General of India in Council, as hereinafter provided, and to transmit such return to the Assessor by a date to be specified in the notice. It shall be explained in the notice that persons requiring forms of returns can procure them at the Office of any of the Assessors. Copies of such notice shall be affixed at the Office of the Commissioners in the Presidency Towns and Straits Settlement at the Collector's Office, at every Revenue or Police Office, and at such other conspicuous places through the Town, Stations of the Settlement, and Districts, as the Collector or Commissioners, respectively, shall appoint. Issue by Collector and Commissioners of general notice to fill in return of profits and income.

XXXVIII. The Assessor shall, without delay after this Act shall come into operation, and afterwards, from year to year, serve a notice, in the form to be prescribed by the Governor-General of India in Council as hereinafter provided, on every person within his jurisdiction, whom he may consider to be liable to the Duties imposed by this Act. Such notice shall require the person to return his profits and income, and

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and shall specify the date by which the return is to be made and the place of the Assessor's Office at which the return is to be made; and shall be signed by the Assessor. The form of the return shall be prescribed as aforesaid and accompany the notice. If the person be not found, the notice shall be left at his usual place of residence or business, or shall be affixed thereto, and thereupon such notice shall be held to have been served.

**XXXIX.** Every person who is liable to the Duties chargeable by this Act, shall transmit to or deliver at the Assessor's Office the return duly filled in and signed by him. A declaration in the form to be prescribed as hereinafter provided, shall be added at the foot of the return, that the profits or income stated therein are truly estimated on all the sources contained in the several Schedules of this Act, after setting against, or deducting from such profit or income, such sums as are allowed by this Act, and no other sum. The return may be sealed up, and the seal shall be broken only by the Assessor.

**XL.** Every person who is in the receipt of any money or value, or the profits arising from any of the sources mentioned in this Act, belonging to any other person, in whatever character the same shall be received, for which such other person is chargeable under this Act, or would be so chargeable if he were resident in India, shall, within the period mentioned in such notice as aforesaid, prepare and deliver, in the form to be prescribed as aforesaid, a list containing a true and correct statement of all such money, value, or profits, and the name and place of abode of the person to whom the same shall belong, together with a declaration in the form to be prescribed as aforesaid whether such person is of full age, or a married woman, subject to the provisions of the English Law regarding coverture, living with her husband, or a married woman, subject as aforesaid, whose husband is not accountable for the payment of the Duty hereby chargeable, or whether such person is or is not a resident in India, or an infant, or lunatic.

**XLI.** Every person acting in such character jointly with any other person, shall, in the manner aforesaid, deliver a list of the name and place of abode of every person so joined with him at the time of delivering such list.

**XLII.** Every

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XLII. Every person, when required so to do by a notice to be prescribed as aforesaid, shall, within the period to be mentioned in such notice, prepare and deliver to the Assessor of the District wherein such person shall reside, a list in writing, containing, to the best of his belief, the proper name of every lodger or inmate resident in his dwelling-house, and of any other persons, not being menial servants receiving less wages than two hundred Rupees per annum, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who shall have any ordinary place of residence elsewhere, at which he is liable, under this Act, to be assessed, who shall be desirous of being so assessed at such place of ordinary residence. Such lists shall be signed by the respective persons delivering the same, and shall be made out in the form to be prescribed as aforesaid. No person being required to deliver a list of lodgers, inmates, or other persons aforesaid, shall be liable to the penalties hereinafter mentioned or either of them, for any omission of the name or residence of any person in his service or employ and not resident in his dwelling-house, if it shall appear that such person is entitled to be exempted from the payment of all and every the Duties hereby imposed.

XLIII. If in any Presidency Town or any Station of the Straits Settlement any person shall desire that his return be rendered to, and his assessment fixed by, the Special Commissioner, he may, together with the return, transmit, under cover to the Assessor, an application to that effect, sealed and addressed to the Special Commissioner. Such application shall, on receipt thereof, be transmitted to the Special Commissioner.

XLIV. If in any other place, any person, whose annual profits or income shall exceed two thousand Rupees, shall desire that his return be rendered to, and his assessment fixed by, the Collector, he may transmit such return sealed and addressed to the Collector.

XLV. The returns made under the last two preceding Sections shall be in the form which shall be prescribed for returns as aforesaid. The declaration required by Section XXXIX shall be added thereto.

XLVI. The

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**XLVI.** The Assessor on receiving the returns shall compute the Duties to the best of his judgment according to the Rules herein contained for each Schedule respectively; but he shall not summon or question the parties making the returns. The Assessor shall make an abstract in the form to be prescribed as aforesaid, specifying the name of each person, the amount of profits or income returned by such person, and the amount of Duty chargeable on such return under this Act.

*Procedure on Assessor receiving returns.*

*Preparation of an abstract.*

**XLVII.** If the Assessor consider any return to be understated, he shall state, in the Abstract prescribed in the last Section, the sum on which he shall consider the person making such return ought to be assessed and the amount of Duty chargeable thereon.

*Understated returns to be noticed in the Abstract.*

**XLVIII.** The Assessor shall make a list of the persons, if any, who have omitted to furnish returns, and shall compute, to the best of his ability, the amount at which such persons should be assessed, and shall enter the Duties chargeable thereon.

*List of persons omitting to furnish returns.*

**XLIX.** The Assessor shall also make out a list of the persons, if any, who have sent applications to be assessed by the Special Commissioner or Collector.

*List of persons applying to be assessed by Special Commissioner or Collector.*

**L.** The Assessor shall have full access to any Collectorate or Revenue Records which he may require to inspect, in order to enable him to compute the Duties on landed property of all kinds, according to the directions hereinafter contained.

*Assessor to have access to Collectorate or Revenue Records.*

**LI.** The Assessor shall deliver or transmit the said abstract and lists, signed by himself, together with the returns received by him, to the Collector or Commissioners. If the Assessor be empowered to make assessments under Section XXII of this Act, he shall also deliver or transmit to the Collector an abstract of the assessments so made by him.

*Abstract and Lists to be sent by Assessor to Collector or Commissioners.*

**LII.** The Collector or Commissioners shall consider the said lists and returns, and shall assess each person with the Duties properly chargeable; but they shall not summon or question the persons chargeable at this stage of the proceedings.

*Collector or Commissioners definitely to assess each party.*

**LIII.** If

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LIII. If the Collector or Commissioners be satisfied with the return made by any person chargeable under this Act, they shall assess him in the amount with which he is chargeable according to the return. Such assessment shall be final, subject only to such surcharge in case of fraud as provided in this Act.

Assessments made by Collector or Commissioners according to returns furnished.

LIV. Whenever the Collector or Commissioners shall be dissatisfied with any return, and shall consider that any person should be charged with Duty in excess of the sum chargeable on the amount of the profits or income returned by him, the Collector or Commissioners shall surcharge such person accordingly in such sum as they shall think fit.

Surcharges.

LV. Whenever any person shall have been surcharged or shall have been charged on an assessment made under Section XLVIII by the Collector or Commissioners, a notice shall be given to such person, in a form to be prescribed as aforesaid, stating the amount of such surcharge or charge, and intimating that, if he desire to urge any objection thereto, he may appear, on a date specified, before the Collector or Commissioners, and make such representation, and tender such proof in support thereof as he may wish. But no person who shall have been charged on an assessment made under Section XLVIII, shall be heard against such charge, if he shall have been served with a notice in the manner prescribed by this Act, unless he can satisfy the Collector or Commissioners that his failure to make the return within the period allowed in such notice was unavoidable.

Notice of surcharge.

LVI. *Clause 1.*—If, on the day appointed, the person shall appear, he shall be heard before the Collector or Commissioners sitting with closed doors, and the Assessor shall also, if required, attend. The Collector or Commissioners shall hear the statement of the person and may inspect any books or papers which he shall voluntarily tender, or question any witness whom he shall produce, but they shall not require the person chargeable to produce any books or proofs besides those which he may choose to tender. An oath or affirmation may be administered to any witness produced by the person, but the person himself shall not be sworn unless he shall desire it. After such hearing the Collector or Commissioners shall modify, abate, or confirm, the surcharge or charge upon such person, or shall postpone the case for further hearing. After finally hearing the case, he or they shall decide the amount in which the person ought to be charged or surcharged, and shall assess him in such amount. Such decision and assessment shall be final, subject only

Procedure on appearance of party.

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only to such surcharge in case of fraud and to such revision as are provided by this Act.

*Clause 2.*—For the purpose of correcting any mistake in law, or for deciding any point specially referred by the Collector, such assessment, if made by the Collector, may be revised, on the application of the person assessed, by the authorities to whom the Collector in matters relating to the land Revenue is subordinate, if they think fit so to do, under such rules as those authorities shall from time to time prescribe.

Revision of assessment.

*Clause 3.*—Before any revision shall be made, the applicant shall deposit with the revising authorities such amount as they may require to be deposited for the purpose of covering costs as hereinafter mentioned.

Deposit of costs before revision.

*Clause 4.*—Pending the revision, the applicant shall be liable to pay the Duty with which he has been charged, as if no such application had been made, subject to a refund of such amount as the revising authorities shall direct.

Pending revision applicant liable to pay the duty.

*Clause 5.* If the revising authorities consider the application for the revision to have been frivolous or vexatious, they may order the applicant to pay such amount of costs as they may think reasonable, and such amount shall be retained out of the amount deposited on account of costs.

Penalty for frivolous or vexatious applications.

**LVII.** When the assessments for any place shall have been made, a general abstract shall be prepared in the form to be prescribed as aforesaid, to which the signature of the Collector or Commissioners shall be attached, and, in accordance with such abstract, the Collector or other Officer in that behalf appointed shall proceed to levy the Duties in the manner hereinafter prescribed.

A general abstract of assessments to be prepared according to which levy of Duties to be made.

**LVIII.** When any person shall have applied to be assessed by the Collector or Special Commissioner under Sections XLIII and XLIV, the Collector or Special Commissioner shall consider such application, together with the return and particulars accompanying it. If the Collector or Special Commissioner shall be satisfied with the return, he shall assess such person according thereto.

Assessments made by Collector or Special Commissioner according to returns furnished.

**LIX.** If

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LIX. If the Collector or Special Commissioner shall not be satisfied with the said return, he shall surcharge the person in such sum as he shall think fit. In case of such surcharge, the Collector or Special Commissioner shall cause such notice to be given to the person in the manner prescribed in Section LV, and shall proceed to make his assessment and surcharge in the manner hereinbefore prescribed.

Surcharges.

Effect of assessment by Collector or Special Commissioner.

LX. Such assessment made by the Collector or Special Commissioner shall be final, subject only in case of fraud to such surcharge as provided in this Act.

LXI. In the Presidency Towns and the Stations of the Straits Settlement, the Special Commissioner shall thereupon seal up the papers and transmit them to the Commissioners.

Presidency Towns, &c. Transmission of papers to Commissioners.

LXII. The returns and other records relating to the execution of this Act, shall be kept under seal in the Office of the Collector, or in the Presidency Towns and Stations of the Straits Settlement, in the Office of the Commissioners. The disposal of such records shall be at the discretion of the Revenue Authorities.

Returns &c. to be kept under seal.

LXIII. In no case shall any paper whatsoever, relating to the assessment of the Duties under this Act, be inspected by any one, save such of the Officers appointed under this Act as are herein expressly authorized to inspect the same.

Papers relating to assessment not to be inspected by others than Officers expressly appointed.

LXIV. Any person who may have occasion to appear before the Collector or Commissioners or Special Commissioner under the provisions of this Act, shall attend in person, unless his personal attendance be dispensed with, on sufficient reason to be shown, in which case a servant, agent, or relation may be heard on his behalf. Provided that no Counsel, Advocate, Pleader, Attorney, or person practising the law shall be allowed to appear or plead on behalf of any other person.

Person how to appear.

LXV. The persons acting in the execution of this Act, shall be charged and assessed to all the Duties imposed by this Act if liable thereto, and shall deliver all such returns and declarations, and shall do all such acts and things as shall be

Persons acting in execution of Act to be charged with Duties as other persons.

be



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be required to be delivered or done by this Act, in order to the assessing of the said Duties in like manner as any other persons.

LXVI. Any person aforesaid, whose return shall be under consideration, or who shall be concerned or interested therein, either for himself or for any other person in any character before described, shall have no voice, and shall not be present, except upon a hearing for the purpose of being examined *vivâ voce* by the Collector or Commissioners having his assessment or schedule under consideration, but shall withdraw during the consideration and determination thereof.

A person acting in execution of Act to have no voice in the consideration of his own return.

PART V.

*Compositions.*

LXVII. Any person desirous of compounding for the Duties mentioned in Schedule 2 of this Act, in the first, second, or third years of this Act, shall, at any time after he shall have delivered the return of his profits or income under the said Schedules, as required by this Act, and before he shall have been assessed for such years, deliver to the Assessor of the District a notice signed by himself of his desire to compound for the Duties in the manner allowed by this Act; and shall state therein whether he desires to compound for three, four, or five years.

Parties may compound for 3,4, or 5 years.

LXVIII. When such assessment shall have been made by the Collector or Commissioners, or a Special Commissioner, it shall be lawful for such Collector or Commissioners to contract and agree with such person for a composition for the said Duties on the terms hereinafter mentioned, for a period of not less than three years, and not more than five years limited for the continuance of this Act, provided such person shall enter into and sign a contract of composition within the space of one calendar month next after the making of such assessment shall have been notified to him, and his appeal against the same (if any) shall have been determined.

Parties to execute contract of composition.

LXIX. The terms of such composition shall be the payment in each year of the said period of the amount of the said assessment so made as aforesaid, together with an addition thereto at the rate of one Rupee for every twenty Rupees of the sum assessed as aforesaid, which addition

Terms of composition.

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addition shall be made by the Collector or Commissioners to the said assessment so made for the first year of the said term.

**LXX.** In each subsequent year thereof the assessment of the said Duties under Schedule 2, upon the person who shall have entered into such contract of composition, shall be made by the Collector or Commissioners in a sum equal to the aggregate amount of the said first year's assessment with the said additional rate thereon, and it shall not be necessary for such person to deliver any further return of profits or income described in the said Schedule 2 during the said period of composition.

*Assessments how to be made in subsequent years upon persons executing contracts.*

**LXXI.** If the person upon whom such assessment as aforesaid shall have been made, shall neglect or refuse to enter into and sign such contract of composition within the time herein limited for that purpose, the assessment so made, without the said additional rate, shall be collected and recovered in like manner as any other assessment under this Act.

*If persons neglect or refuse to execute contract of composition.*

**LXXII.** The contract of composition shall be made in the form to be prescribed as aforesaid. Every such contract of composition shall be made in two parts, which shall be severally signed by the Collector or one of the Commissioners, and by the person compounding. One of such parts shall be delivered to the person compounding, and the other part shall remain with the Collector or Commissioners.

*Form of contract of composition.*  
*Contract to be in two parts.*

**LXXIII.** Every such contract shall be an authority for the Collector or Commissioners to make an assessment on the person compounding for each year of the said period of composition in accordance with the terms thereof, and to cause the sum thereby assessed to be collected and paid over in such manner and by such means as are herein authorized in relation to any other assessment made under this Act.

*Effect of contract.*

**LXXIV.** If any person who shall have compounded as aforesaid shall die or become bankrupt or insolvent before the expiration of the period of composition, his contract of composition shall cease and determine on the 30th of April next after his death,

*Composition to cease on 30th April next after death or bankruptcy of party compounding.*

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death, bankruptcy, or insolvency, save and except as to any instalment of Duty which, before the said day, shall have become payable and shall then remain unpaid.

**LXXV.** If any person who shall propose to compound for the Duties chargeable under Schedule 2 of this Act shall wilfully make or deliver any false return or declaration of profits or income described in such Schedule, or shall wilfully conceal or omit to state any of such his profits or income, or any part or portion thereof, or any other matter or thing required by this Act to be stated in such declaration or return; or if any person shall, by any fraudulent means, procure an assessment to be made upon him for a less amount of the said Duties than he shall be chargeable with, in order to compound thereon: or if any person shall, by any fraudulent means whatever, cause or procure a contract of composition to be made or entered into with him for a less amount of Duties than he ought to be charged with, the contract of composition, if any, which shall have been made with such person, shall be void and of no effect, and such party shall be charged and assessed as if no such contract had been made, and any sum of money which may have been paid in pursuance of such contract shall be forfeited.

In case of fraud in compounding, composition to be void, and penalties incurred.

Officers not exercising full powers of a Collector incapable of making contracts.

**LXXVI.** No Officer not exercising the full powers of a Collector shall have authority to make any contract of composition under this Part of the Act.

PART VI.

*Provisions as to Trustees and Special Classes of Persons chargeable.*

**LXXVII.** The trustee, guardian, curator, or committee of any person, being an infant, or married woman subject to the law of England as aforesaid, or a lunatic, and having the direction, control, or management of the property or concerns of such infant, married woman, or lunatic, whether such infant, married woman, or lunatic shall reside in India or not, shall, if such infant, married woman, or lunatic be chargeable under this Act, be charged to the said Duties in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic if he were capable of acting for himself.

Trustees and Guardians of incapacitated persons to be charged.

**LXXVIII.** Any

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**LXXVIII.** Any person not resident in India, whether a subject of Her Majesty or not, being in the receipt, through any agent, factor, or receiver, of any profits or income chargeable under this Act, shall be chargeable in the name of such agent, factor, or receiver having the receipt in India of such profits or income belonging to such person, in the like manner and to the like amount as would be charged to such person if resident in India, and in the actual receipt thereof.

Trustees, Guardians, Agents, &c., required to do all acts required to be done by their principals.

**LXXIX.** Every such trustee, guardian, curator, or committee, and every such agent, factor, or receiver, shall be answerable for the doing of all such acts and things as are required to be done by the person chargeable.

**LXXX.** No trustee, who shall have authorized the receipt of the profits or income arising from trust property by the person entitled thereto, or by the agent of such person, provided such person shall actually receive the same under such authority, and no agent, or factor, or receiver of any person, being of full age, and resident in India, and being under no disability, who shall return a list in the manner herein required, of the name and residence of such person, and of the amount of the income liable to be assessed, shall be required to do any other act for the purpose of assessing such person, unless the Collector or Commissioners, acting in the execution of this Act in respect of the assessment to be made on such person, shall require the evidence of such trustee, agent, or receiver. The Collector or Commissioners shall have power to summon such person to attend before them when his evidence is required.

**LXXXI.** Every person who shall act in any character as aforesaid for any other person, who by reason of any such incapacity as aforesaid, or by reason of his not being resident in India, cannot be personally charged by virtue of this Act, shall also, when required, deliver in the manner herein directed and in the same District in which the person delivering such list ought to be charged on his own account, a true and correct statement, in writing, signed by him, of the amount of the profits and income to be charged on him on account of such other person, estimated during the period, and according to the rules contained in the said respective Schedules, together with such declaration of the truth of such statement, as required in Section XXXIX of this Act.

Trustees or Agents of incapacitated persons may be required to furnish statements of income and profits.

**LXXXII.** Where

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**LXXXII.** Where two or more such persons shall be liable to be charged for the same person, one return only shall be required, and such return shall be made by such persons jointly, or by one or more of them on behalf of himself or themselves; and it shall be lawful for them to give notice, in writing, to the Collector or Commissioners acting for the place where they shall be called upon for such statement, in what place they are respectively chargeable by this Act on their own account, and in which of the said places they are desirous of being so charged on the behalf of such other person for whom they so act in any of the characters before-mentioned, and they shall be assessed accordingly by one assessment in such place, provided any one of such persons shall be liable to be charged on his own account in the same place.

Mode of Assessment if two or more such persons are liable to be charged for the same person.

**LXXXIII.** If more than one assessment shall be made on such persons, or any of them, on the same account, relief shall be granted for such double assessment by like applications to the Collector or Commissioners, as are allowed in other cases by this Act.

Relief from double Assessments.

**LXXXIV.** The receiver or manager appointed by any Court in India, whether constituted by Royal Charter or not, or having the direction and control of any property in respect whereof a Duty is charged by this Act, whether the title to such property shall be uncertain or not, or subject to any contingency or not, shall be chargeable to the said Duty in like manner and to the like extent as the persons entitled thereto would be chargeable, if in actual possession of the said property, and if the title thereto were certain and not subject to any contingency whatever.

Receiver or Manager of trust property chargeable.

**LXXXV.** The several Courts of Wards in the Presidencies of Bengal, Madras, and Bombay, and in any other parts of India wherein such Courts are established, shall, in respect of all property, profits, and income under the direction and control of such Courts, and chargeable with any Duty under this Act, whether the proprietors on whose behalf the said Courts shall have such direction or control, be or continue disqualified or not, so long as the said Courts shall have such direction or control, shall be chargeable to the said Duty in the like manner and to the like extent as the proprietors of such property, profits, and income, if not disqualified, and if in actual possession thereof, would be chargeable.

Court of Wards is to be charged for property in its control.

**LXXXVI.** The

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**LXXXVI.** The Administrators General of Bengal, Madras, and Bombay shall be chargeable under this Act in respect of all property, profits, and income in their possession or under their control by virtue of any letter of administration or *ad colligenda*, or by virtue of any probate granted to them respectively, as executor of any will, or of any appointment as curator, or as official trustee.

Administrators General are to be charged for all property in their possession and control.

**LXXXVII.** Every such receiver or manager, every such Court of Wards, and every such Administrator General, shall be answerable for doing all such matters and things, and for delivering all such returns and declarations, as are required to be done by virtue of this Act, in order to the charging of the Duties imposed by this Act in respect of the several properties, profits, and income under their care respectively, and in order to the payment of the same.

Receivers, Managers, Courts of Wards, and Administrators General are required to do all acts under this Act.

**LXXXVIII.** All Bodies politic or corporate or collegiate, and all Companies or Societies of persons, whether corporate or not, shall be chargeable with the same Duties, and shall be subject in all respects to the provisions of this Act, in the same manner as any person and his property are subject thereto.

Bodies, Companies, and Societies charged with Duties.

**LXXXIX.** When any such Body, Company, or Society shall be registered under any Act of the Governor-General of India in Council for the time being in force, the registered Officers of such Body, Company, or Society, and where it shall not be so registered, the Secretary or Principal Agent or Manager in India, shall be answerable for doing all such acts and things as shall be required to be done by virtue of this Act, in order to the assessing such Body, Company, or Society, or the officers or servants thereof, as hereinafter provided, to the Duties imposed by this Act and paying the same.

Secretaries, or Principal Agents or Managers of registered Bodies, Companies, or Societies to do all acts required for assessment.

**XC.** The Treasurer, Secretary, or Principal Agent or Manager in India of any such Body, Company, or Society, whether the same be registered, as aforesaid or not, shall be also answerable for the payment of the said Duties, payable by such Body, Company, or Society.

Treasurers &c. of Bodies, Companies, and Societies answerable for payment of Duties.

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**XCI.** The Treasurer, Secretary, or Principal Agent, or Manager in India of any such Body, Company, or Society, shall also, within the period required by this Act, prepare and deliver, in the form to be prescribed as aforesaid, a true and correct return of the profits and income to be charged on such Body, Company, or Society, computed according to the directions of this Act, together with such declaration of the truth of the said return as aforesaid, as required by Section XXXIX of this Act.

Treasurers &c. of Bodies, Companies, and Societies are required to deliver correct returns.

**XCII.** Such return shall be made on the amount of the annual profits and income of such Body, Company, or Society, before any dividend shall have been made thereof to any other persons, Bodies, or Companies having any share, right, or title in or to such profits or income, and all such other persons, Bodies, Companies, or Societies shall allow, out of such dividends, a proportionate deduction in respect of the Duty so charged.

Such return to be made on annual profits and income before a dividend is made.

**XCIII.** When any trustee, guardian, curator, or committee, agent, factor, or receiver of or for any person, shall be assessed under this Act in respect of such person; or when any receiver appointed by any Court, or when any Court of Wards, or any Administrator General, shall be assessed under this Act in respect of the property, profits, or income received by them; or when any Secretary, Agent, Manager, or other officer of any Body, Company, or Society shall be so assessed in respect of such Body, Company, or Society as aforesaid, it shall be lawful for every such person, who shall be so assessed, out of the money which shall come to his hands as such trustee, guardian, curator, committee, agent, factor, or receiver as aforesaid, or as such receiver, Court of Wards, or such Secretary, Manager, Agent, or Administrator General; or such other officer as aforesaid, to retain so much thereof from time to time as shall be sufficient to pay such assessment; and each of the said persons enumerated in this Section is hereby fully indemnified against every person, Body, Company, or Society whatsoever, for all payments which he shall make under this Act.

Trustees, Agents, and Receivers may retain Duties charged on them out of trust monies.

**XCIV.** Any married woman subject to the law of England in regard to her coverture, acting as a sole trader in her own name, or having or being entitled to any profits or income to her sole or separate use, shall be chargeable to the Duties under this Act,

Married woman (subject to English law) having separate property chargeable.

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Act, in like manner, except as hereinafter mentioned, as if she were sole and unmarried.

**XCV.** The profits or income of any married woman subject to the law of England, as aforesaid, living with her husband, shall be deemed the profits of the husband, and the same shall be charged in the name of the husband, and not in her name or in the name of her trustee.

**XCVI.** Any married woman subject to the law of England, or acting as committeee as aforesaid, living in India separate from her husband; whether such husband shall be temporarily absent from her or from India, or otherwise, who shall receive any allowance or remittance from property out of India, shall be charged as a *feme sole* if entitled thereto in her own right, and as the agent of the husband if she receive the same from or through him, or from his property, or on his credit.

PART VII.

Rules under Schedule 1.

**XCVII.** The Duties hereby imposed and contained in Schedule 1 shall be assessed and charged under the following Rules, that is to say:—

SCHEDULE 1.

**Rule 1.** The annual profits of the proprietors or holders of lands paying revenue direct to Government, not under any permanent settlement, but under any settlement liable to revision or alteration, shall be estimated at one-third of the annual amount of revenue payable to the Government. The owners or holders of such lands shall be chargeable with the amount of the annual profits so estimated.

**Rule 2.** If any owner or holder of lands included in Rule 1 shall prove to the satisfaction of the Collector or Commissioners that the actual annual profits received by him from the said lands are less in value than one-third the annual amount of revenue payable in respect of the said lands, the Collector or Commissioners



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Commissioners shall reduce accordingly the annual amount of Duty with which such owner or holder is chargeable.

**Rule 3.** If any such owner or holder shall object, either before the Collector or the Commissioners, to be charged with the annual value at the rate of one-third the annual amount of revenue payable on the said lands, he shall be bound to make all the returns and declarations, and be subject to the same rules as the owners or holders of lands mentioned in the following rules; and if it shall appear to the Collector or to the Commissioners that the annual profits arising from the said lands are more, in value than one-third of the said annual amount of the said Government revenue, the Collector or the Commissioners shall charge such owner or holder with such increased annual value of the profits, and he shall be charged double Duty in respect thereof.

**Rule 4.** All persons in the actual receipt, whether as owners or not, of any rents or profits arising out of any lands or houses not included in the said first general rule, whether paying revenue to the Government or not, shall return and deliver, as aforesaid, a statement of all the several estates, tenures, sub-tenures, lands, and houses held by them, and of the nature of such estates, tenures, and sub-tenures, and of the amount of the rents and profits whereof they shall be in receipt as aforesaid, under any title whatever, and in whatever District situated, and of the rents and profits, of whatsoever nature or kind, received and receivable by them on account of every such separate estate, tenure, sub-tenure, lands, and houses as the rent or profits payable for the preceding year, that is to say, the revenue year immediately preceding the year of assessment, and shall be chargeable upon the annual amount of such rents and profits. Every return required by this Section shall be accompanied by a rent-roll containing the name of every person to whom such lands or houses or any part thereof are underlet by the person making such return, and the amount of rent payable in every such case, and every such return and rent-roll shall be filed in the Collector's Office, and shall be conclusive evidence against the person making such return in any suit for the recovery of rent as to the amount payable by any tenant included in such rent-roll for the period to which such return applies, and shall also be conclusive evidence against him in all other actions or suits, unless it shall be proved to the satisfaction of the Court or Officer before whom such return and rent-roll is offered in evidence, that any statement contained therein

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therein is erroneous, and that the error arose from accident and not from any fraudulent intention, in which case the said Court or Officer shall not be bound to treat the same as conclusive.

Rule 5. Every such person as aforesaid, who shall not receive for his own sole use and benefit the whole rents and profits of any such estate, tenure, sub-tenure, lands, or houses as aforesaid, shall state in his said return, to the best of his knowledge and belief, the name of every other person having a share therein, the extent of the respective shares of such persons, and the amount of rents and profits received by them for their own use and benefit. Any two or more persons, being sharers in any estate, tenure, sub-tenure, lands, or houses, may render a joint return to the above effect, in which they shall specify their respective shares.

Rule 6. *Clause 1.* In returning such rents and profits the gross amount received and receivable during the preceding year shall be fully stated, but if the person receiving or entitled to receive the same be himself liable to pay, in respect of any land or house, any land revenue to Government or any rent to any superior landlord, he shall state in his return the amount of such revenue and rent, and the name of the person to whom the rent is payable, and shall be charged with the said Duties on his rent and profits, whether received or not, after deducting the amount of such land revenue or of the rent so payable by him to such superior landlord.

*Clause 2.* Or at the option of the Collector or Commissioners he may be charged with the Duties on the rent and profits without making any such deduction on account of land revenue or rent,

*Clause 3.* Whenever any person shall pay the said Duties on the rent or profits of any land or house without deduction on account of any land revenue or rent payable by him in respect of such house or land, he shall have a right to deduct from any revenue or rent payable by him, as the case may be, a sum equal to the amount of the Duty computed upon such revenue or rent.

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Payment deemed a payment to Government by the person from whom deduction is made.

*Clause 4.* A deduction from revenue or rent under the provisions of this Act shall be deemed a payment to Government by the person from whom the deduction is made of the amount so deducted.

*Rule 7.* All other persons occupying lands or houses, other than ryots and occupiers as provided in Sections CXXX and CXXXI of this Act, and not being the owners thereof, shall return and deliver, in manner aforesaid, the actual amount of profits realised by them from the said lands or houses during the preceding year, and shall be assessed thereon.

All other persons occupying lands to return and be charged with actual profits.

*Rule 8.* Owners of lands or of houses occupying the same, except ryots and occupiers as last aforesaid, shall be chargeable in respect of the annual value thereof at the rack-rent at which such lands or houses are worth to be let for the year.

Owners of lands or houses occupying the same to be charged at rack-rent at which the same are worth to be let.

*Rule 9.* The said Duty shall also be assessed upon the amount received within the year preceding by or on account of any person as a fine or bonus in consideration of any lease of, or agreement to let any land or house.

Fines and bonuses on leases.

*Rule 10.* When any mortgagee or creditor having a lien on any land or house shall be in possession of the land or house mortgaged, such mortgagee or creditor, whether in the actual occupation, or in the receipt of the rents and profits of such land or house, shall be chargeable as the owner of the same, according to the Rules herein contained; and upon any settlement of accounts between such mortgagee or creditor, and the mortgagor or debtor, the Duty chargeable under this Act, in respect of the amount of the interest payable upon the mortgage or debt, shall be taken and allowed as so much money received by such mortgagee or creditor on account of such interest.

Mortgagees in possession.

*Rule 11.* If the person who is the owner of any land or house at the time the assessment is made, shall die before payment of the Duty chargeable under this Act, the heirs, executors, administrators, or assigns, or other person who, on the death of such person, shall become entitled to the rent or profit of such land or house, shall be liable to the payment

Owners dying before payment.

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payment of all arrears of the said Duty due at the time of the death of such person, and to all subsequent instalments for the same year, without any new assessment.

Rule 12. When any house shall be divided into distinct portions, and such portions shall be occupied by distinct owners or their respective tenants, such owners shall be liable for their respective proportions of the Duties chargeable under this Act.

Rule 13. No deduction from the assessment of any land or house shall be allowed in any case, unless the same shall be authorized by this Act, nor unless an account in writing, signed by the party claiming such deduction, stating the nature and amount thereof, shall have been delivered to the Assessor within the time, and pursuant to the notice given by such Assessor. Provided it shall be lawful for any local Government to authorize a deduction to be made in respect of any extraordinary or unusual charge to which the property is subjected.

Rule 14. If any such deduction shall be made contrary to this Act, or without such account in writing, as aforesaid, the person making the same shall be surcharged with the amount of such deduction.

Rule 15. When the rent of any land shall depend wholly or in part on the price of any kind of grain, or on the actual produce of the land, the computation for the purpose of charging the Duties in Schedule I of this Act, in respect either of the price or quantity of such produce, shall be made, and the amount to be assessed shall be ascertained, according to the rules and in the manner by which such rent has been usually ascertained in the same District between landlord and tenant, and the Collector or Commissioners shall in such cases determine according to what rules and in what manner it has been usual, in the said District, to ascertain the amount of such rent between landlord and tenant.

Rule 16. The Duty shall be assessed on all lands and houses, whether occupied at the time of assessment or not.

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Rule 17. The said Duty shall not be levied on any house which shall be unoccupied for such year or portion of the year as the same shall be unoccupied, but the assessment, thereupon for such year, or portion of the year as aforesaid, shall, upon appeal, be discharged or diminished by the Collector or Commissioners, on due proof of the time during which such house remained unoccupied.

Remission of assessment on unoccupied houses.

Rule 18. If any dispute shall arise touching the annual value of any land or house, and the Collector or Commissioners shall deem it necessary, or the person chargeable shall desire, that a valuation thereof shall be made by any competent person, it shall be lawful for the Collector or Commissioners to direct that a valuation be made by any such person to be named by the Collector or Commissioners, the costs and charges whereof shall abide the final determination of the Collector or Commissioners, and to require the just valuation to be verified on the oath or solemn affirmation of the person making the same. If the person chargeable, after having desired such valuation, or any person instigated by him, shall obstruct or resist the making of such valuation, the Collector or Commissioners shall make an assessment according to the best of their judgment without such valuation.

Power to appoint a Valuer.

Rule 19. It shall be competent to the Collector or Commissioners, in every case where the valuation so made shall exceed the value put upon the said land or house by the person chargeable, to direct that the costs and charges attending the same shall be paid by him; but if they shall be of opinion that such costs and charges have not been incurred through any fault of such person, they shall direct the same to be paid by the Collector of the District, who, on the certificate of the Collector or Commissioners present at the time of the determination, shall pay the same.

Costs of valuation by whom to be paid.

Rule 20. Whenever, by any flood, drought, or tempest, loss shall be sustained on the growing crops, or on the stock on lands let to tenants, or the lands, or any part thereof, shall by such flood, drought, or tempest, be rendered incapable of cultivation for any year, and it shall be proved to the satisfaction of the Collector or Commissioners that the owner of the said land, or the person in receipt of the rents thereof, has, in consideration of such loss, abated or agreed to abate to any tenant the whole or any proportion of the rent reserved or payable by such tenant for any year of such lease, it shall be lawful for the Collector or Commissioners

Deduction in favor of owners where rent reduced in consequence of flood, drought, or tempest.

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Commissioners to abate in the assessment made in respect of the said lands for the same year for which such rent has been abated, and to discharge therefrom the whole or the like proportion of Duty as the said owner shall be proved to have abated from the rent reserved and made payable to him on such lease.

Rule 21. It shall also be lawful for the Collector or Commissioners, in every such case, to abate in the assessment made in respect of the occupation of the said land for the same year, and to discharge therefrom the like proportion of Duty as shall have been abated or discharged from the assessment made in respect of the property on the said land for the cause aforesaid.

A similar provision in favor of occupiers.

Rule 22. Whenever, from any of the causes aforesaid, the like loss shall be sustained on any land in the occupation of the owner, and the same shall be proved to the satisfaction of the Collector or Commissioners, it shall be lawful for the Collector or Commissioners to abate in the assessment made in respect of the said land, and to discharge the whole or any part of the said Duty, in proportion to the loss so sustained, and to the amount which the Collector or Commissioners shall be of opinion would or ought to have been abated as aforesaid, if the said land had been let to a tenant, and a proportionate abatement had been made to such tenant under the circumstances of the said loss.

A similar provision as to lands in occupation of owner.

Rule 23. Whenever any loss of rent shall be sustained by the owner or landlord of any land occasioned by the insolvency or absconding of the tenant or occupier by whom such rent was payable, or by the fraudulent assignment or removal of his goods, or by reason of such land being left unoccupied or waste, and the same shall be established to the satisfaction of the Collector or Commissioners, it shall be lawful for the Collector or Commissioners to abate in the assessment made in respect of the said land, and to discharge the whole or any part of the said Duty in proportion to the loss so sustained.

Deductions for loss caused by insolvency or absconding of tenants.

PART VIII.

*Rules under Schedule 2.*

XCVIII. The Duties hereby imposed contained in the Schedule marked 2 shall be assessed and charged under the following Rules:—

Assessment of Duties under Schedule 2.

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SCHEDULE 2.

The said Rules shall extend and apply to every description of property or profits which shall not be contained in either Schedule 1 or Schedule 3, and to every description of profession or employment of profit not contained in Schedule 4, and not specially exempted from the said Duties, and shall be charged annually on, and paid by the person receiving or entitled to the same, and his representatives.

FIRST CASE.—*The Duties to be charged in respect of any Trade.*

Rule 1. The Duties to be charged in respect of any trade shall be computed upon a sum not less than the full amount of the profits of such trade during the preceding year, that is to say, during one year ending on the day of the year immediately preceding the year of assessment on which the accounts of the said trade shall have been usually made up, or on the 30th day of April preceding the year of assessment, and shall be assessed and paid without other deduction than is hereinafter allowed. Provided that any profits made in respect of any trade or adventure carried on entirely out of India, and which shall be in no way connected either with the products of India exported therefrom, or with any manufactures or products whatever purchased out of India and imported or to be imported into India, shall be exempted from any charge under this Act, unless such profits be received in India.

Computation of Duties to be charged for the preceding year.

Proviso as to profits of trade &c. carried on out of India.

Rule 2. When the trade shall have been set up and commenced within the period of one year, or within the year of assessment, the computation shall be made according to an average of the profits for such period as the Collector or Commissioners shall, under the circumstances, direct.

Computation when the trade has been commenced within the preceding year.

Rule 3. The Duties under Schedule 2 shall extend to every trade, whether the same be connected with the occupation and use of land or not, including among others the following persons: Railway Companies, Canal Companies, Steam Navigation Companies, Irrigation Companies, Docking Companies, Coal Companies, Gas Companies, Mining Companies, Tea Companies, Indigo Planters and Manufacturers, Coffee Planters, Sugar Planters, Tea Planters, Silk Manufacturers, Holders of Silk Filatures, and all Companies and persons holding or using land for the purpose

Description of trades chargeable under Schedule 2.

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purpose of manufacturing the produce thereof and selling such produce when manufactured, or for any purpose of the nature of trade or manufacture, whether such Companies or persons are subject to the Bankrupt or Insolvent Laws as traders or not. The foregoing enumeration shall not be construed to exclude any person not expressly specified therein, who would, but for such enumeration, have been deemed to be included therein under the general words of this Rule.

Rule 4. In estimating the profits or income chargeable under Schedule 2, or for the purpose of assessing the Duties thereon, no sum shall be allowed to be set against or deducted from such profits or income on account of any sum expended for repairs of premises occupied for the purpose of such trade, manufacture, or concern, nor for any sum expended for the repairs of any implements, utensils, or articles employed for the purpose of such trade, manufacture, or concern, beyond the sum usually expended for such purposes, according to an average of three years preceding the year in which such assessment shall be made; nor on account of loss not connected with, or arising out of such trade; nor on account of any capital withdrawn therefrom, nor for any sum employed or intended to be employed as capital in such trade; nor for any capital employed in improvement of premises occupied for the purposes of such trade, manufacture, or concern; nor on account of any interest which might have been made on such sums if laid out at interest; nor for any debts, except bad debts proved to be such to the satisfaction of the Collector or Commissioners.

Rule 5. In estimating the amount of the profits or income arising as aforesaid, no deduction shall be made on account of any annual interest, or any annuity or other annual payment paid or payable to any person out of such profits.

SECOND CASE.—*The Duties to be charged in respect of professions or employments not contained in any other Schedule of this Act.*

Rule 6. The Duties on professions or employments shall be construed to extend to every profession and employment in any character whatever, for whatever period, and to all profits and earnings, of whatever value, subject only to such exemptions as are hereinafter mentioned.

Rule 7.



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Rule 7. The Duties to be charged shall be computed at a sum not less than the full amount of the balance of the profits and income of such profession or employment (after making such deductions as by this Act are allowed) within the preceding year, ending as in the first case, to be paid on the actual amount of such profits or income, without any deduction, subject to the like provisions as are made in the first case in Rule No. 2, in respect of the period of computation in the case of setting up or commencing such profession or employment within the year preceding the year of assessment, or within the year of assessment.

4th and 5th Rules of Case 1 applicable to Case 2. Rule 8. The fourth and fifth Rules in the first Case shall also extend to the profits arising under the second Case, as far as they are applicable.

*Rules applying to both the preceding Cases.*

Disbursements which are not to be allowed in computing profits under Schedule 2. Rule 9. In estimating the profits or income to be charged according to either of the first or second Cases, no sum shall be allowed to be set against or deducted from such profits or income for any disbursements or expenses whatever, not being money wholly and exclusively expended for the purposes of such trade, or of such profession or employment, nor for any disbursements or expenses of maintenance of the parties, their families, or establishments, nor for the rent or value of any dwelling-house or domestic offices, or any part of such dwelling-house or domestic offices, except such part thereof as may be used for the purposes of such trade, profession, or employment, not exceeding the proportion of the said rent or value hereinafter mentioned, nor for any sum expended in any other domestic or private purpose distinct from the purposes of such trade, or of such profession or employment.

Duties to be computed inclusive of profits arising from lands connected with trade. Rule 10. The computation of the Duties to be charged in respect of any trade, profession, or employment, whether carried on by any person singly or by any two or more persons jointly, or by any Corporation, Company, or Society, shall be made inclusive of the profits or income arising from any land or house occupied for the purpose of such trade or of any profession or employment.

Rule 11.

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Rule 11. The computation of Duties arising in respect of any trade, profession, or employment carried on by two or more persons jointly, shall be made and stated jointly and in one sum, and separately and distinctly from any other Duty chargeable on the same persons or either or any of them.

Computation in the case of several persons in partnership.

Rule 12. The return of the partner who shall be first named in the deed, instrument, or other agreement of co-partnership, or where there shall be no such deed, instrument, or agreement, then of the partner who shall be named singly, or with precedence to the other partner or partners, in the usual name, style, or firm of such co-partnership, or where such precedent partner shall not be an acting partner, then of the precedent acting partner, and who shall be resident in India, shall be sufficient authority to charge such partners jointly.

Return of partner first named in deed or of precedent acting partner resident in India, sufficient authority to charge partners jointly.

Rule 13. Every such partner who shall be so first named as aforesaid, and such precedent partner or precedent acting partner as aforesaid resident in India, is hereby required, under the penalty herein contained for default in making any return required by this Act, to make such return on behalf of himself and the other partner or partners, whose names and residences shall also be declared in such return.

Liability of every such partner to penalty for default in making returns.

Rule 14. Where no such partner shall be resident in India, then the statement shall be prepared and delivered by their agent, manager, or factor, resident in India, jointly for such partners, and such joint assessment shall be made in the partnership name, style, or firm, and no separate statement shall be allowed in any case of partnership, except for the purpose of the partners separately claiming an exemption as herein directed, or of accounting for separate concerns.

Where no such partner is resident in India.

Rule 15. Any partner being entitled to exemption, shall declare the proportion of his share in such partnership, trade, or profession, in order to a separate assessment. For the above purpose, it shall be lawful to charge the partners in such partnership separately; but if no such claim be made, and in any other case, such assessment shall be made jointly, according to the amount of the profits and gains of such partnership.

Case of separate assessment.

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Rule 16. Any partner in such trade, profession, or employment, who shall have been already returned by such precedent partner as aforesaid, may return his name and place of abode, and that he is such partner, without returning the amount of Duties payable in respect thereof, unless the Collector or Commissioners shall think proper to require a further return, in which case it shall be lawful for the Collector or Commissioners to require from every such partner the like return as they are hereby entitled to require from the precedent partner.

Partners returned by precedent partner may return their own names.

Rule 17. If amongst any persons engaged in any trade, or in any profession or employment in partnership together, any change shall take place in any such partnership, either by death or dissolution of partnership as to all or any of the partners, or by admitting any other partner therein before the time of making the assessment, or within the period for which the assessment ought to be made under this Act, or if any person shall have succeeded to any trade, or any profession or employment, within such respective periods as aforesaid, the Duties payable in respect of such partnership, or any of such partners, or any person succeeding to such profession, trade, or employment, shall be computed and ascertained according to the profits and income of such business derived during the respective periods herein mentioned, notwithstanding such change therein or succession thereto as aforesaid, unless such partners or such persons succeeding to such business as aforesaid shall prove, to the satisfaction of the Collector or Commissioners, that the profits or income of such business have fallen short, or will fall short, for some specific cause, to be alleged to them, since such change or succession took place and by reason thereof.

Rule as to change in partners.

Rule 18. Every statement of profits or income to be charged under this Schedule shall include every source so chargeable on the person delivering the same on his own account or on account of any other person.

Statement of profits to include every source of profit.

Rule 19. Every such statement on the behalf of any other person, for which such person shall be chargeable as acting in any of the characters before described, or on the behalf of any Corporation, Company, or Society, shall include every source chargeable as last aforesaid, and shall be delivered in that District where such person, Corporation, Company, or Society would be chargeable, if acting on his or their own behalf.

Statement of profits on behalf of other persons or of Corporations, Companies, or Societies.

Rule 20.

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THIRD CASE.—*The Duties to be charged in respect of profits of an uncertain yearly value not charged in Schedule 1.*

Rule 20. The Duties to be charged in respect of profits of uncertain yearly value not charged in Schedule 1, shall be computed at a sum not less than the full amount of the profits arising therefrom within the preceding year, ending as in the first Case, to be paid on the actual amount of such profits, without any deduction.

Rule 21. The profits on all securities bearing interest payable out of the public revenue, (except securities herein directed to be charged under the rules of Schedule 3,) and on all discounts and on all interest of money, not being annual interest, shall be charged according to the last preceding Rule in this Case.

FOURTH CASE.—*The Duties to be charged in respect of Interest or Income arising from any Property situated out of British India, whether in any other part of Her Majesty's Dominions or not.*

Rule 22. The Duties to be charged on any person residing in India, in respect of any interest or income arising from any property situated out of India, whether in any other part of Her Majesty's Dominions or not, if such interest or income is received or intended to be received in India, shall be computed on a sum not less than the full amount of the actual sums which have been received in India during the preceding year, without other deduction or abatement than is herein allowed.

FIFTH CASE.—*The Duties to be charged in respect of any annual profits or income not falling under any of the foregoing Rules, and not chargeable under any other Schedules.*

Rule 23. The nature of any profits or income not falling under any of the foregoing Rules, and the principle on which the amount thereof shall have been computed, and the average taken thereon (if any), shall be stated in the return made by the party in this behalf, and the computation shall be made either on the amount of the full value of the profits or income received annually, or according to an average of such period, not exceeding one year, as the case may require, and as shall be directed

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be directed by the Collector or Commissioners, and such statement and computation shall be made to the best of the knowledge and belief of the person in receipt of the said profits or income or entitled thereto.

*General Rules.*

Rule 24: Any person carrying on in the same Presidency Town, Station in the Straits Settlement, or District, two or more distinct professions, trades, or employments, the profits whereof are made chargeable under the Rules of Schedule 2, and in each of which he is solely interested; or any two or more persons carrying on in the same Presidency Town, Station in the Straits Settlement, or District, in partnership with each other, two or more distinct professions, trades, or employments, in each of which the same persons alone are interested, may deduct and set off against the profits acquired in one or more of the said professions, trades, or employments, the excess of the loss sustained in any other of the said professions, trades, or employments, over and above the profits thereof, in such manner as may be done under this Act where a loss may be deducted from the profits of the same trade.

When one person, or one firm consisting of the same persons, carries on two distinct trades, losses in one trade may be set off against profits in the other.

In such cases separate statements of profits and losses to be made.

Rule 25: Such person or persons shall, in such cases, make separate statements of the profits and losses of the said several trades.

Rule 26. Any person carrying on any profession, trade, or employment, either alone or in partnership, renting a house, part of which shall be used by him for the purposes of any profession, trade, or employment hereby charged, may deduct and set off from the profits of such profession, trade, or employment such sum, not exceeding two-third parts of the rent *bonâ fide* paid for such house, with the appurtenances, as the Collector or Commissioners shall think fit to allow, and the Collector or Commissioners shall have authority to allow such deductions as in other cases, and to assess such person accordingly.

Deduction for two-thirds of rent of houses occupied for purpose of trade or profession.

Rule 27. Upon all annuities, yearly interest of money, or other annual payments, whether such payments shall be payable within or out of India, either as a charge on any property of the person paying the same by virtue of any deed, or will, or otherwise

Duty to be charged on all annual interest not otherwise charged under this Act.

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otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract, or whether the same shall be received and payable half-yearly or at any shorter or more distant periods, the Duties payable under this Act shall be charged upon the annual amount thereof without deduction, subject to the provisions by which the Duties in the third Case of Schedule 2 may be charged.

Rule 28. In every case in which such Duties shall be payable out of profits brought into charge by virtue of this Act, no assessment shall be made upon the person entitled to such annuity, interest, or other annual payment, but the whole of such profits shall be charged with the said Duties on the person liable to such annual payment.

On whom Duties to be charged.

Rule 29. The person so liable to make such annual payment, whether out of the profits charged with Duties, or out of any annual payment liable to deduction, or from which a deduction shall have been made, shall be authorized to deduct out of such annual payment the Duties payable thereon under this Act.

Interest from profits charged liable to deduction.

Rule 30. The person to whom such payment, liable to deduction, is to be made, shall allow such deduction at the full rate of Duties hereby directed to be charged upon the receipt of the residue of the money.

At what rate of Duties deduction to be allowed.

Rule 31. The person charged to the said Duties, having made such deduction, shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid to the person to whom such payment shall have been due and payable.

Acquittance and discharge of amount of deduction.

Rule 32. When any annual payment as aforesaid shall, by reason of the same being charged on any property or security not being in India or otherwise, be received or receivable without any such deduction as aforesaid, and when any such payment shall be made from profits not charged by this Act, or when any interest of money shall not be reserved or charged, or payable for the period of one year, then and in every such case there shall be charged upon such interest, annuity, or other annual payment as aforesaid, the Duties herein mentioned according to, and subject to the several provisions by which the Duties in the third Case of Schedule 2 may be charged.

All other interest how to be charged.

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Rule 33. Whenever it shall be proved to the satisfaction of the Collector or Commissioners acting in the place where any person making the application shall reside, that any annuity, interest of money, or other annual payment shall be annually paid out of the profits *bonâ fide* accounted for and charged by virtue of this Act, at the rate and according to the Rules specified in Schedule 2, without any deduction on account thereof, it shall be lawful for the Collector or Commissioners to grant a certificate thereof under the hands of any one of them, in the form to be prescribed as aforesaid, which certificate shall entitle the person so assessed, upon payment of such annuity, interest, or other annual payment, to deduct so much thereof as a like rate on such annuity, interest, or other annual payments would amount unto. But no such certificate shall be required where such payments are to be made out of the profits arising from any land or house as before mentioned, or of any office or employment of profit, or out of any annuity, or pension, or any dividend or share in such public annuities as are herein mentioned, but such deductions in all such cases may be made without having obtained such certificate.

Deduction on payment of interest of money and other payments from profits under Schedule 2 to be made under a certificate.

In what cases deductions may be made without certificate.

*Rules as to Districts in which persons are chargeable.*

Rule 34. Every Body Corporate, Company, or Society shall be charged to the Duties contained in this Act by the Collector or Commissioners acting for the place where the head Office in India of such Body Corporate, Company, or Society is situate.

Where Corporations, Companies, or Societies are Chargeable.

Rule 35. Every person being a householder, except persons engaged in any trade, profession, or employment, shall be charged to the said Duties contained in Schedule 2 by the Collector or Commissioners acting for the place where the dwelling-house of such person shall be situate.

Where householders, other than persons engaged in any trade, profession, or employment, are chargeable.

Rule 36. Every person engaged in any trade, profession, or employment shall be charged to the said Duties contained in the said Schedule 2, by the Collector or Commissioners acting for each place where such trade shall be carried on or such profession or employment shall be exercised.

Where persons engaged in any trade &c., are chargeable.

Rule 37.

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Rule 37. When any trade shall be carried on in India by the manufacture of goods, wares, or merchandize, the assessment thereon shall be at the place of manufacture, although the sale of such goods, wares, or merchandize shall be elsewhere.

Where manufacturers are to be assessed.

Rule 38. Every person not being a house-holder, nor engaged in any trade, profession, or employment, who shall have any place of ordinary residence, shall be charged by the Collector or Commissioners acting for the place where such person shall ordinarily reside.

Where persons, not being householders nor engaged in trade &c., are chargeable.

Rule 39. Every person not hereinbefore described shall be charged by the Collector or Commissioners acting for the place where such person shall reside at the beginning of each year.

Where persons not hereinbefore described are chargeable.

Rule 40. Every such charge shall be valid and effectual, notwithstanding the subsequent removal of the person so charged from such place.

Every charge made as aforesaid not affected by subsequent removal.

Rule 41. Every person not being engaged in any trade, profession, or employment, having two or more houses at which he shall be ordinarily resident, shall be charged by the Collector or Commissioners acting for each place where such houses shall be situate.

Persons not engaged in trade, having more than one dwelling-house, where chargeable.

Rule 42. Every person having two or more residences, or carrying on any trade, or exercising any profession or employment in different places, or in any place different from the place of his ordinary residence, shall be served with a notice in each of such places, and shall deliver in each of such places the like returns and declarations as he is required to deliver by this Act. Such person shall in each of his returns state all the places in which he carries on any trade, or exercises any profession or employment, the place of his ordinary residence, and the place where he resided at the beginning of the current year.

Persons having more than one residence, or carrying on trade in different places, shall be called on to make returns at each place.

Rule 43. The Duties to be assessed by virtue of this Act, in respect of the profits or income arising from possessions or securities out of British India, whether within any other of Her Majesty's dominions or not, shall be stated to and assessed by the Collector and Commissioners respectively acting for the place

Profits from foreign possessions to be charged in Districts where persons chargeable reside or carry on trade.



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place where the person receiving or entitled to the same shall reside or carry on any trade or profession.

No person chargeable in different places to be liable to double payment.

source of income.

Rule 44. No person who shall be liable to be charged in different places under this Act shall be liable to any double payment in respect of the same property or

*Rules for Temporary Residents in India.*

Temporary residents to be charged in respect of income and profits out of India after six months' residence, but not before.

Rule 45. No person who shall, on or after the passing of this Act, be in India for some temporary purpose only, and not with any view or intent of residing therein for a period exceeding six months in the whole from the commencement of such residence, and who shall not actually have resided in India at one time or at several times for a period equal in the whole to six months in any one year, shall be charged with the Duties mentioned in Schedule 2 as a person residing in India in respect of the profits or income received from or out of any possessions, property, or securities, not being in India, or from any trade, profession, or employment not carried on in India.

Rule 46. Every such person, if he shall actually reside or remain in India for such period as aforesaid, shall be chargeable to the said Duties where and for what year chargeable. Duties in the place in which he shall reside or be, for the year commencing on the 1st day of August preceding

Rule 47. Every such person who, having quitted India as aforesaid, shall return to India and complete within the year of assessment a residence of six months, shall be chargeable to the said Duties in the place wherein he shall reside or be, as a person residing in India, for the whole of the year in which such assessment shall have been made.

*General Rule.*

Rule 48. All returns and declarations, containing the amount of profits or income charged under Schedule 2, may be delivered sealed up, if superscribed with the name and place of abode of, or place of exercising the profession or employment, or carrying on trade by the person by whom the same shall have been made. \*

PART IX.

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PART IX.

*Rules under Schedule 3.*

Assessment of Duties  
under Schedule 3.

XCLIX. The Duties hereby imposed contained in the Schedule marked 3 shall be assessed and charged under the following Rules, that is to say:—

SCHEDULE 3.

Rule 1. The said last-mentioned Duties shall be assessed by the Ex-Officio and Special Assessors herein authorized to make the assessment on any interest, annuities, dividends, or shares of annuities charged in the said Schedule 3, and shall be deducted by the officers and persons entrusted with the payment of such interest, annuities, dividends, or shares of annuities on behalf of the persons entitled thereto. Such Duties shall extend to all interest, annuities, dividends, or shares of annuities whatever payable in India, out of any public revenue, which shall become due on or after the 1st day of August 1860.

Rule 2. All Promissory Notes of the Government of India which shall be enforced for payment of the interest thereon out of India either by Drafts or Bills on India or otherwise, shall in all cases be enforced subject to the condition that the amount of any Duties which may at any time be chargeable in India in respect of such interest, shall be deducted therefrom at the place where the interest shall be paid, or the Drafts or Bills shall be given.

Rule 3. The officers and persons entrusted with the payment of the said interest, annuities, dividends, or shares of annuities shall set apart and retain the amount of Duties so assessed on the interest, annuities, dividends, and shares for the purposes of this Act.

Rule 4. Every such setting apart and retaining of the said Duties shall be deemed a payment thereof by, or on the behalf of, the persons entitled to the said interest, annuities, dividends, and shares of annuities respectively.

Rule 5.

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Rule 5. All persons are hereby required, on receipt of the residue of the said interest, annuities, dividends, and shares of annuities over and above the Duties so assessed, to allow such payment in respect of the said assessment.

Such payment to be made on receipt of residue.

Rule 6. The officers and persons entrusted as aforesaid, and the Secretary of State in Council, and all persons responsible for the due payment of such interest, annuities, dividends, and shares of annuities, shall be acquitted and discharged of and from so much money so set apart and retained as aforesaid, as if the same had actually been paid to the persons to whom such interest, annuities, dividends, and shares did, or might belong, or were by law payable.

Acquittance and discharge in respect of such payments.

PART X.

*Rules under Schedule 4.*

C. The Duties hereby imposed, contained in the Schedule marked 4, shall be assessed and charged under the Rules hereinafter mentioned; and the said Duties shall be annually charged on the persons respectively holding or exercising the offices or employments of profit mentioned in Schedule 4, or to whom the annuities, pensions, or salaries mentioned in the said Schedule shall be payable. The Duties in respect of every annuity, pension, or salary shall be assessed upon the amount of such annuity, pension, or salary, and the Duties in respect of every office or employment shall be assessed upon the amount of all salaries, fees, commissions, or other profits accruing by reason of such office or employment, whether the same be paid by Government, or received from any other person whatever, or be deducted by the person holding such office or employment from any funds in his possession.

Assessment of Duties under Schedule 4 on salaries, perquisites, or profits of offices, annuities, salaries, and pensions.

CASE 1.—*Public offices, and employments; and annuities, pensions, and salaries payable by the Government of India.*

Rule 1. Every assessment in respect of every such annuity, and pension, and salary, and every assessment in respect of every salary or payment made by Government to any public officer, shall in cases requiring audit be made at the time of audit, and in all other cases at the time of payment.

Assessment when to be made.

Rule 2.

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Rule 2. The said Duties shall be paid on the profits or income arising from  
Descriptions of offices any public office or employment of the description herein-  
charged. after mentioned, or arising to any of the officers herein-  
after mentioned when serving in India.

(1.) Any office or employment held under the Government, or the salary whereof, or emoluments attached whereto, are payable by the Government, or out of any public revenue in India.

(2.) Any Commissioned Officer belonging to Her Majesty's Army or to Her Majesty's Indian Forces.

(3.) Any Commissioned Officer in Her Majesty's Navy, in respect of any emoluments received by him from the Government of India.

(4.) Any Commissioned Officer in the Indian Naval Forces of Her Majesty, or in the Marine Establishment.

(5.) Any office or employment of profit held in any Court of Justice.

(6.) Any office or employment of profit under any public institution, or on any public foundation, of whatever nature, or for whatever purpose the same may be established.

(7.) And every other public office or employment of profit of a public nature.

Rule 3. Every public officer chargeable under Schedule 4 of this Act in  
Fees or perquisites to be estimated on profits of preceding year. respect of any fees, commissions, perquisites, or profit not being salaries to be assessed under Rule 1, shall be subject to and shall be assessed under the provisions of the 4th Part of this Act, and such fees, commissions, perquisites, and profits shall be estimated on the receipts in respect thereof during the preceding year ending on the 30th of April, or on any other day on which the accounts of such fees, commissions, perquisites, and profits have been usually made up.

CASE 2.—*Rules for offices or employments of profit under any Company in India.*

Rule 4. When the salaries, perquisites, or profits of any person chargeable with the Duties under Schedule 4 shall arise from any  
Assessment by whom to be made. office or employment of profit under any Company in  
India,

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India, in whose employment the person chargeable shall be, the assessment shall be made by an Assessor who shall be specially entrusted with the duty of making such assessment by the Collector or Commissioners of the place where such Company shall have its head office.

Rule 5. Every person holding any office or employment in or under any Company in India as aforesaid, shall be deemed to have exercised the same at the head office in India of the Company under which such office or employment shall be held, and shall be assessed for such office or employment, as if exercised at such office, although the duties of such office or employment shall be performed, or any part of the profits arising from such office or employment shall be payable elsewhere, whether within or out of India.

Persons assessed for offices to be deemed to have exercised the same at the head office.

Rule 6. The Assessor appointed to make assessments under these Rules shall, as soon as such assessment is completed, make an abstract of the same in the form to be prescribed as aforesaid, and shall forward such abstract to the Collector or Commissioners of the place where such head office is held, and shall deliver a copy of the same at such head office. If the Assessor be not satisfied with the return made on behalf of such Company by the Treasurer or other officer making the same under Sections LXXXIX and XCI of this Act, he shall enter his remarks thereon in the said abstract, and shall further assess the officers employed by such Company at such rate as he shall think right. Thereupon the same proceedings shall be taken by the Collector and Commissioners as in the case of individual returns as hereinbefore provided.

Assessor to prepare an abstract of assessments.

Rule 7. The Duties payable on all such assessments shall be paid at the head office in India of such Company, by the Treasurer or other officer of such Company, whose duty it is to pay the salaries of such Company at such office.

Duties where and how payable.

Rule 8. When any person holding any such office or employment, in or under any Company in India, shall claim to be exempt from such assessment, the Assessor shall nevertheless set down in such assessment the name of such person, and the full and just annual value of his office or employment, and the claim to such exemption shall be preferred to and examined by the Collector or Commissioners, and

Full value of offices to be stated, although exemption claimed.

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and the merits thereof shall be heard and determined by the Collector or Commissioners under the regulations of this Act with respect to other assessments.

Rule 9. The Collector or Commissioners shall cause the like duplicate to be made of the said assessments and delivered to collecting officers with like warrants to collect the said Duties, as are by this Act directed to be given to collecting officers for any Districts.

Commissioners to deliver duplicates of assessments to collecting officers.

Rule 10. When the Duties hereby chargeable upon any office or employment of profit cannot be detained and stopped according to the provisions of the following Rule 11, or the amount of such Duties shall have been paid over to the person holding or exercising the said office or employment, and such person shall refuse or neglect to pay the sum of money charged upon him, the Assessor for assessing the Duties on the said offices shall certify in writing to the Collector or Commissioners such neglect or refusal, and the sum payable by virtue of this Act.

Duties on offices which cannot be stopped, to be certified in case of non-payment.

The collecting officer thereupon shall levy the said Duties by the like ways and means, and under the like powers as are herein provided in regard to the Duties under Schedules 1 and 2, and as if such officer or person were charged to the said Duties in such District.

Collecting officer to levy the Duties.

CASE 3.—*Rules applicable to both Cases.*

Rule 11. The sums assessed under the foregoing Sections shall be stopped out of any money which shall be payable to the persons assessed in respect of any salaries, perquisites, profits, and pensions so assessed or the arrears thereof.

Assessment how to be enforced.

Rule 12. In estimating the Duties payable for any such office or employment of profit, or on any annuity, pension, or salary, all official deductions and payments made upon the receipt of the salaries, perquisites, and profits thereof, or in passing the accounts belonging to such office, or upon the receipt of such annuity, pension, or salary, shall be deducted.

No Duties on account of official deductions from salaries, &c.

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Rule 13. When any person, holding any office or employment of profit in respect of which he is liable under these Rules, shall, at any time during or in respect of any year of assessment, become entitled to any additional salary, perquisite, or profits beyond the amount for which any assessment may have been made upon him, or beyond the amount for which, at the commencement of such year, he may have been liable to be assessed, an additional assessment shall, from time to time, as often as the case shall require, be made upon such person for such additional salary, perquisite, or profits, so that he shall be assessed and charged for the full amount of the whole of the salary, fees, and emoluments, which he shall receive or become entitled to at any time, and from time to time, during or in respect of the said year of assessment.

Public officers becoming entitled to increased salaries to be charged for the same by supplemental assessment.

Rule 14. Such portion of the said Duties under Schedule 4 on offices or employments of profit, or on annuities, pensions, or salaries as is charged upon any sum of money payable to any other person, shall be deducted out of the sum payable to such other person; and such person, his agent, or receiver, shall allow such deductions and payments upon receipt of the residue of such sums.

Duties charged on sums payable to any other person to be deducted out of the same.

Rule 15. Such portion of the Duties as shall be charged on any office or employment of profit executed by any deputy or clerk, or other person employed under the principal in such office, and paid by such principal out of the salary or profits of such principal, shall be deducted out of the salary or profits so payable, and all such deputies, clerks, and other persons so employed shall allow to their respective principals such deductions and payments upon the receipt of the residue of such salaries or wages.

Duties paid by the principal in an office upon salary paid to a deputy or clerk to be deducted out of such salary.

Rule 16. If any office or employment of profit chargeable by Schedule 4 shall be executed by deputy, such deputy shall, in all cases where he shall be in the receipt of the profits thereof, be answerable for and shall pay such Duties as shall be charged thereon, and deduct the same out of the profits of such office or employment.

Deputy to pay for principal when in receipt of the profits.

Rule 17.

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Rule 17. When the salaries, fees, or profits of any officer or officers chargeable under this Schedule shall be receivable by any one or more of the said officers for the use of such officers, to be divided amongst such officers in certain proportions, the officer or officers receiving such salaries, fees, or profits shall be answerable for the Duties charged thereon, and shall pay and deduct the same out of the funds provided for such respective offices or employments before any division or apportionment thereof.

Rule 18. Such portion of the said Duties as shall be stopped and deducted under this Schedule shall be stopped and deducted at such times in each year as the said sums shall be payable to the person entitled thereto.

PART XI.

*Discretionary modes of Assessment in particular Districts.*

CI. Except in the Presidency Towns and Stations of the Straits Settlement, it shall be lawful for the local Government, from time to time, to order that the assessment under Schedule 1 or Schedule 2 of this Act, in any part of the territories under such Government, or among any class of inhabitants of any part of such territories, or in respect of any one or more of the inhabitants of such territories, shall be made by Panchayet, to consist of not less than three persons, or by the Collector or by any officer whom such local Government shall specially appoint for the purpose.

CII. When the assessment is ordered to be made by Panchayet, the Members of the Panchayet shall be appointed by the Collector or by any Deputy Collector specially authorized to make assessments under Section XXII of this Act.

CIII. If the assessment is ordered to be made by the Collector or other officer aforesaid, such Collector or other officer shall be guided in making the assessment by the general provisions of this Act, and all returns of profit and income, or other returns required by this Act, shall be made to such Collector or other officer.

CIV. If



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CIV. If any person residing in any place in which the assessment is ordered to be made by Panchayet shall, before any proceedings are taken by the Panchayet, object to be assessed by Panchayet, such person shall be assessed by the Collector or by any officer specially appointed as aforesaid under the ordinary provisions of this Act, as if no such order for assessment by Panchayet had been made.

CV. If the Collector shall not be satisfied with the assessment made by the Panchayet, he may require the Panchayet to re-consider and revise the same.

Collector may require Panchayet to re-consider and revise assessment.

CVI. If the Collector shall not be satisfied with the assessment made by the Panchayet after he shall have required them to re-consider the same, or if the Panchayet shall refuse or neglect to revise and alter the same to the satisfaction of the Collector, the Collector shall certify that he is dissatisfied with the assessment made, and thereupon no further proceedings shall be held under the said order; but the several persons in the territories affected by such order, and chargeable with the said Duties, shall be assessed to the said Duties in the manner prescribed in and according to the ordinary provisions of this Act, and shall be liable to make all the returns and declarations, and to do the several acts and things in order to the said assessment and shall be subject to the same proceedings as in this Act provided, as if no such order had been made.

CVII. If the Collector shall be satisfied with the assessment made by the Panchayet as aforesaid, he shall confirm the same, and shall cause proclamation to be made in the part of the District where the persons affected thereby reside, that he has confirmed the said assessment.

CVIII. The assessment so confirmed shall be final and conclusive, unless the same shall be disallowed or varied upon any such appeal or further proceeding as hereafter mentioned, and the assessment shall also be subject to be surcharged in respect of fraud, as provided in this Act.

Such confirmation shall be final and conclusive, except in cases of appeal or fraud.

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PART XII.

*Appeals from Assessment by Panchayets.*

CIX. If any person assessed by a Panchayet shall be dissatisfied with the assessment, such person may, within fifteen days after the proclamation of the said assessment in the part of the District in which such person shall reside at the time of the assessment, or within such further period as the Collector for any special reason may allow, appeal to the Collector of the District.

Persons dissatisfied may appeal within fifteen days.

Proceedings upon appeal shall be according to Part IV of this Act.

CX. The appeal shall be made and the proceedings upon any such appeal shall be conducted according to the provisions of Part IV of this Act.

CXI. The person so appealing shall make all such returns and declarations, and shall do all such acts and things as are required by Part IV of this Act, and shall be subject to the several provisions in the said Part IV of this Act.

Appellant required to do certain acts.

CXII. If, upon the hearing of such appeal, the Collector is satisfied that the assessment upon the person appealing is erroneous and excessive, the Collector shall reduce the assessment on such person, and shall settle in what sum the person so appealing ought to be assessed, and make an assessment on him accordingly. Such assessment shall be final and conclusive, subject only to such surcharge in the case of fraud as provided in this Act.

Collector, if satisfied upon such appeal, shall reduce the assessment.

CXIII. If, upon the hearing of such appeal, the person so appealing shall not satisfy the Collector that the assessment upon him is erroneous and excessive, his appeal shall be dismissed, and if it shall appear to the Collector that the appeal is frivolous or vexatious, the party appealing shall be liable to be charged by the Collector to the said Duty in a sum not exceeding double the amount at which he was assessed under the said assessment.

Collector, if dissatisfied, shall dismiss the appeal, and may charge double assessment.

CXIV. In all cases of appeal, it shall be lawful for the members of the Panchayet from whose assessment the appeal shall have been preferred, or any of them, to attend before the Collector and to support their assessment, and the Collector may summon the members of the Panchayet to attend for such purpose.

Members of Panchayets may attend before the Collector and support their assessment when appealed from.

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CXV. It shall be lawful for the local Government, from time to time, to make Rules not inconsistent with the provisions of this Act for carrying out the provisions of this Act, for assessment by Panchayet, and disposing of appeals from such assessment.

Local Government to make Regulations for the execution of this Act.

PART XIII

*Exemptions.*

CXVI. No person shall be chargeable to any Duty under this Act, who shall prove to the satisfaction of the Collector or Commissioners, in the manner hereinafter mentioned, that the aggregate amount of his annual income or profits, from whatever source derived, estimated under the Rules of this Act, is less than two hundred Rupees. Any person so satisfying the Collector or Commissioners as aforesaid shall be entitled to be repaid the amount of any deduction or payment on account thereof, in the manner hereinafter directed, except so much of such Duty as the person claiming such exemption shall be entitled to charge against any other person, or to retain from any payment to which such claimant may be liable.

Exemption of persons whose income is less than two hundred Rupees yearly.

CXVII. No person who shall prove to the satisfaction of the Collector or Commissioners that the aggregate amount of his profits or income, from whatever source derived, estimated as aforesaid, though amounting to two hundred Rupees a year, is less than five hundred Rupees, shall be charged with more than two Rupees of every hundred Rupees of the annual value of his profit or income, or shall be charged with any part of the Duty of one Rupee per centum chargeable under Section III of this Act for roads, canals, and other reproductive public works. Any person so satisfying the Collector or Commissioners, as aforesaid, shall be entitled to be repaid the amount of any deduction or payment on account of the said Duty of one per cent, or of the excess of the said Duty of three per cent., from which he shall be so exempted as aforesaid, except as in the last preceding Section of this Act is excepted.

Exemption of persons from the Duty of 1 per cent and from excess above 2 per cent. whose income is less than five hundred Rupees yearly.

CXVIII. The exemption allowed by the foregoing Sections shall be claimed and proved, and all proceedings thereupon shall be had, before the Collector or Commissioners of the place where the claimant is charged, whether such claimant shall be personally charged in such place or not.

Claims for exemption in the preceding Sections mentioned, and proceedings thereon, shall be determined before Collector or Commissioners.

CXIX. Every

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**CXIX.** Every person assessed under this Act claiming to be entitled to such exemption as aforesaid shall, within the time to be limited as hereinbefore directed for delivering in the returns and declarations required by this Act, or within such further time as the Collector or Commissioners respectively shall for special cause assigned allow, deliver or cause to be delivered to the Assessor of the place where such claimant shall reside, a notice of his claim to such exemption, together with a declaration signed by such claimant and in such form as shall be prescribed as aforesaid, declaring and setting forth therein all the particular sources from whence the income of such claimant shall arise, and the particular amount arising from each source, and also every sum of annual interest or other annual payment reserved or charged thereon, whereby the income shall or may be diminished, and also every sum which such claimant may have charged, or may be entitled to charge against any other person, on account of the Duties made payable by this Act, or which he may have deducted or may be entitled to deduct under the authority of this Act, from any payment to which he may be liable.

Persons entitled to such exemptions shall deliver to the Assessor a statement, stating the source of income.

Assessor to transmit such statement to Collector or Commissioners.

**CXX.** The Assessor shall transmit such return and declaration to the Collector or Commissioners.

**CXXI.** If it shall appear to the said Collector or Commissioners that any property or profits of such person is or are assessed, or liable to be assessed in any other place, the Collector or Commissioners shall certify to the Chief Revenue Authority of the Presidency, Lieutenant-Governorship, or Province, in such form as shall be prescribed as aforesaid, the allowance of exemption in respect of such property or profits; and the Chief Revenue Authority shall direct the assessment made upon any profits or income of such claimant, in any other place, to be discharged either wholly or to the extent of such excess, as aforesaid, as the case may require, and the same shall be discharged accordingly.

Property of persons claiming such exemption in any other District, shall be exempted on the certificate of the Collector, or by the Chief Revenue Authority of the District.

**CXXII.** If it shall be proved to the satisfaction of the Collector or Commissioners, that any person, whose claim to exemption has been allowed in manner aforesaid, has been charged to and has paid any Duty under this Act by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, and from which a deduction is authorized to be made by this Act; or that such person has been assessed and has paid such Duty in respect of any interest,

On proof that persons entitled to exemption have been charged with Duties by the deduction from any annuity, dividend, and rent, Commissioners to grant certificate thereof, which shall authorize the Collector to re-pay the amount of such Duties.

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interest, annuity, dividend, pension, or salary payable to him out of the public revenue, in such case it shall be lawful for the said Collector or Commissioners respectively, to certify what shall have been so proved, and thereupon the same shall be repaid in such manner and under such rules as the local Government shall from time to time prescribe.

**CXXIII.** When the whole profit or income of the claimant shall arise from an office or employment of profit, or from an annuity, pension, or salary, the assessment on which is made by an Ex-Officio or Special Assessor, the claim to such exemption shall be made to and may be allowed by such Ex-Officio or Special Assessor.

In case of incomes of offices, pensions, and salaries, the claim shall be made before the Assessors.

**CXXIV.** If the claimant shall be out of India, an affidavit stating the several matters required by this Act, taken before any person having authority to administer oaths and affirmations in the place where such claimant shall reside, may be received in relation to the assessment on which such claim is founded.

Persons out of British India may claim by affidavit.

**CXXV.** A claim for exemption may be made by a guardian, trustee, agent, or factor, on account of others, in any case where satisfactory proof shall be given that the party claiming such exemption is unable to attend in person, or such claim may be made by the several persons acting in any of the characters hereinbefore described in such manner as they may act for others for the purpose of being assessed on their account in the first instance, as hereinbefore directed.

Claims may be made by Agents or Trustees on account of others.

**CXXVI.** No person shall be chargeable to the Duties under this Act in respect of the profits derived by Government from any property, real or personal, vested in, or held in trust for the Government, or the Secretary of State for India in Council, for public purposes; and all such profits shall be wholly exempted from the said Duties.

All Government property exempted.

**CXXVII.** Officers, Non-Commissioned Officers, and Privates of Her Majesty's Forces, or of Her Majesty's Indian Military Forces, or of any Military Police or other Police Force, whose pay and allowances shall be less than the pay and allowances of a Captain of Infantry in Her Majesty's Forces in India, shall be wholly

Officers and Soldiers of any Military or Police Force, whose pay and allowances are less than those of a Captain of Infantry, exempted.

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be wholly exempted from the said Duties in respect of any pay or allowance which they may receive from Her Majesty, or from the Government, or from any public Revenue.

**CXXVIII.** Officers of Her Majesty's Navy or of the Indian Naval forces, or in the employment of Government in the Marine Department not above the rank of Lieutenant, and all Warrant and Petty Officers and Seamen shall in like manner be exempted from the said Duties.

Naval and Marine Officers not above the rank of Lieutenant, exempted.

**CXXIX.** Public Officers, Civil, Military, or Naval, shall be wholly exempted from the said Duties in respect of any allowance received by any such Officer for travelling expenses, contract allowances, tent or horse allowance, or any allowance in lieu of house-rent, or to meet any disbursement for the public service.

Public Officers exempted in respect of travelling and other allowances.

**CXXX.** Ryots and persons in the occupation of lands for agricultural purposes and actually engaged in the cultivation and depasturing of the same, shall not be chargeable with the said Duty in respect only of the occupation of such lands, unless the rent paid by such ryots or persons in respect of such occupation, whether under direct engagement for the same with Government or not, shall amount at least to six hundred Rupees per annum, or unless the full annual value of such land at a rack rent shall exceed that amount.

Ryots &c. paying less than 600 Rupees yearly, exempted.

**CXXXI.** Persons occupying houses for the purpose of habitation only, and holding the same at a rack rent, shall not be chargeable with the said Duties in respect of their occupation only of such houses.

Persons occupying houses at a rack rent, exempted.

**CXXXII.** The Assessor in his assessment of houses actually occupied shall deduct such amount for repairs as the owners thereof shall prove to his satisfaction to have been expended, not exceeding a sum equal to the rent of such houses for six months in every three years.

Deduction on account of repairs of house.

**CXXXIII.** It shall be lawful for the local Government, subject to the approval of the Governor-General of India in Council, to order that any property, moveable or immovable, solely employed for or dedicated to religious or charitable public purposes,

Power to exempt property used for charitable purposes or public religious purposes.

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purposes, shall be wholly or partially exempted from the Duties chargeable under this Act, and to make such orders as may be necessary for securing and carrying into effect such exemption.

**CXXXIV.** Any person who shall have made insurance on his life, or on the life of his wife, or shall have contracted for any deferred annuity on his own life, or on the life of his wife, in or with any Insurance Company duly registered under any Act of the imperial Parliament or under any Act of the Governor-General of India in Council, or authorized by law to carry on business without registration, and any person who shall be liable to the payment of any periodical sum or to have any sum periodically deducted from his salary, in order to secure a deferred annuity to himself or to his widow, or a provision to his children after his death, shall be entitled to deduct the amount so paid by him for such insurance or contract or deducted from his salary as aforesaid, from any profits or income in respect of which he shall be liable to be assessed under any of the Schedules of this Act, excepting Schedule 3; or to have any assessment which may be made upon him under any of the said Schedules, except Schedule 3, reduced or abated by the deduction of the amount of the said annual premium or sum from the amount of the profits or income on which such assessment has been made.

**CXXXV.** If such person shall be assessed to Duties under any of the Schedules contained in this Act and shall have paid such assessment, or shall have paid or been charged with any of the said Duties by deduction or otherwise, such person, on claim made to the Collector or Commissioners and on production to them of the receipt for such annual payment or sums, and on proof of the fact to the satisfaction of the said Collector or Commissioners, shall be entitled to have repaid to him such proportion of the said Duties paid as the amount of the said premium or sum bears to the whole amount of his profits on which he shall be chargeable under all or any of the Schedules of this Act.

**CXXXVI.** No such abatement, allowance, or repayment as aforesaid, shall be made in respect of any such premium or sum beyond one-sixth part of the whole amount of the profits and income of such person so chargeable as aforesaid, nor shall any such deduction or abatement entitle any such person to claim exemption from Duties,

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Duties, on the ground of his annual profits or income being thereby reduced below two hundred Rupees, or five hundred Rupees, as the case may be.

PART XIV.

*Abatement and Relief from double Assessments.*

CXXXVII. Whenever any person shall have been assessed to any of the Duties imposed by this Act, whether charged on him on his own account, or in any of the characters hereinbefore described on the behalf of any other person, and shall, by any error or mistake, be again assessed for the same cause and on the same account and for the same year, it shall be lawful for him to apply to the Collector or Commissioners acting for the place in which he shall have been so assessed, for the purpose of being relieved from such double assessment, and the Collector or Commissioners, on proof thereof to their satisfaction, shall cause such assessment or such part thereof as shall be a double charge as aforesaid to be remitted.

Collector or Commissioners to grant relief from double assessments.

CXXXVIII. Whenever any double assessment shall have been so remitted, it shall be lawful for the Collector or Commissioners to direct the repayment thereof in such manner and under such rules as the Governor-General of India in Council shall prescribe.

Governor-General in Council to prescribe rules for re-payment of double assessment.

CXXXIX. If within or at the end of the year for which any assessment shall be made under this Act, any person charged to the Duties contained in Schedule 2 shall prove to the satisfaction of the Collector or Commissioners that interest or profits during the year for which the assessment was made, fell short of the sum on which the assessment (not being a Composition) was made, it shall be lawful for the Collector or Commissioners to cause the assessment for such current year to be amended in respect of such source of profit as the case shall require; and in case the Duties charged on such assessment shall have been paid, to order the repayment of the same in such manner and under such rules as the Governor-General of India in Council shall prescribe.

Abatement on account of diminution of income, how to be allowed.

CXL. If



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**CXL.** If any person charged to the Duties under Schedule 2 shall cease to exercise the profession or employment or to carry on the trade in respect to which the assessment was made, or shall die, or become bankrupt, or insolvent, before the end of such year, or shall from any other cause be deprived of, or lose the profits on which the assessment was made, such person or his representative may make application to the Collector or Commissioners within any period not exceeding three calendar months after the end of such year, and on proof thereof to their satisfaction, the Collector or Commissioners shall cause the assessment to be amended as the case may require, and re-payment of any Duties ordered to be remitted shall be made in such manner and under such rules as the Governor-General of India in Council may prescribe.

Abatement to be allowed when persons shall cease to exercise any trade, or shall die before the end of the year.

**CXLI.** When any person shall have succeeded to the trade of the person charged, no such amendment shall be made, unless it shall be proved to the satisfaction of the Collector or Commissioners that the profits of such trade have fallen short from some cause, since such change took place, and by reason thereof, but such person shall be liable to the payment of the full Duty without any new assessment.

Procedure in cases of succession to the trade of a person charged.

PART XV.

*Mode of Payment and Collection of the Duties.*

**CXLII.** The Duties assessed under this Act, except where the same shall be detained and stopped as the pensions, salaries, allowances, interest, and annuities chargeable therewith become due at the respective offices, shall be payable in each year by instalments at the times following, that is to say, on or before the 1st day of November for the first quarterly instalment, on or before the 1st day of February for the second quarterly instalment, on or before the 1st day of May for the third quarterly instalment, and on or before the 1st day of August for the last quarterly instalment in each year. Provided that it shall be lawful for the local Government to prescribe such other periodical instalments and such other periods of payment as it shall think proper; and the orders of such local Government shall be notified by proclamation in the Districts to which such orders relate, in the manner usual in such Districts.

Duties to be payable by four quarterly instalments.

Proviso.

**CXLIII.** The

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**CXLIII.** The Collector or Commissioners authorized to make assessments in respect of the assessments made by them shall, as soon as possible after the assessments shall have been determined, issue out and deliver to the respective collecting officers, duplicates of the assessments of the Duties charged in the respective Schedules, distinguishing the amounts charged under each of the said Schedules.

Collector or Commissioners to deliver duplicate assessment to collecting officer, which shall be sufficient authority to him to levy.

**CXLIV.** Such duplicates shall, except in the cases provided for in Part XVI of this Act, contain the names and descriptions of the persons assessed and charged.

Form of duplicates.

**CXLV.** Such duplicates shall be a sufficient warrant and authority to the collecting officers for the levying and collecting of the said Duties specified in the duplicates, as the same shall become payable by such instalments as aforesaid, and such collecting officers shall proceed forthwith to levy and collect the same.

Effect of duplicates.

**CXLVI.** Whenever any Treasury or office shall be appointed by the local Government for the receipt of money under this Act, the payment of the Duties chargeable under this Act may be made by or on account of the person liable to the same at such Treasury or Office.

Payment of Duties at any Treasury or office appointed under this Act.

**CXLVII.** Whenever any payment shall be made at such Treasury or office, or to any collecting officer, to whom a duplicate of the assessment as aforesaid shall have been delivered by the Collector, of any instalment of Duties assessed under this Act, the officer receiving the amount shall give a receipt under his hand to the person who shall pay the same, and such receipt shall be a full and complete discharge for the money so paid.

On payment, receipt to be given.

**CXLVIII.** The Collector or Commissioners shall cause general notice to be given in their respective jurisdictions, by proclamation in the manner usual therein, of the Treasuries or offices appointed by the Government for the receipt of the said Duties, and of the officers or persons to whom the said Duties may be paid.

Collector or Commissioners to give general notice of appointment of Treasuries, and of Officers to whom Duties are to be paid.

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PART XVI

*Mode of Payment of Duties under Schedule 2, when parties desire to pay according to Numbers or Letters.*

**CXLIX.** The assessments upon profits or income under Schedule 2 made by the Collector or Commissioners, shall be entered in books with the names and descriptions of the persons to be charged therewith, and their respective places of abode set opposite thereto, which entries shall be distinguished by numbers or letters, as the Collector or Commissioners shall think proper.

Assessments under Schedule 2 to be entered in books.

**CL.** When the person charged with any Duties under Schedule 2, and whose name and description shall have been entered as aforesaid, shall have declared his intention to pay the Duties at the proper Treasury or office or to the proper officer within the time limited by this Act for payment thereof, if the Collector or Commissioners shall be satisfied with such declaration, they shall deliver to such person, or to any other person attending on his behalf, a certificate under the signature of the Collector or of two or more of the Commissioners, specifying the amount to be paid by such person for one year upon such assessment.

Certificate of assessment to be delivered to persons.

**CLI.** Every such certificate shall be numbered or lettered with the same number or letter as the entry in the book to which the certificate shall relate, without naming or otherwise describing the person charged.

Certificate to be numbered and lettered.

**CLII.** Such certificate shall, on production thereof, be a sufficient authority to the officer in charge of such Treasury or office or to such collecting officer to receive from the person producing such certificate, the amount therein mentioned in such proportions thereof as by this Act are made payable by instalments, and at the times by this Act appointed for payment thereof.

Effect of certificate.

**CLIII.** On the payment of the sums contained in such certificate, or any proportion thereof, the said officer in charge of such Treasury or office or the collecting officer shall give an acknowledgment for the same as paid on account of the certificate.

Acknowledgment of payment according to certificate.

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certificate of the Collector or Commissioners by the number or letter marked therein as before directed.

CLIV. It shall be lawful for the Collector or Commissioners to issue out and deliver to the respective collecting officers duplicates of the assessments made by them, containing the sums assessed on every person to whom a certificate hath been delivered by letter or number, together with the number or letter set opposite thereto in their respective books before mentioned, without naming such persons, and all such sums shall be paid to the collecting officers; and such part thereof as shall not be so paid to them, may be levied and collected as herein is provided.

*Duplicates to be delivered to collecting officers, and when assessments are made under a number or letter, a warrant for receiving the Duties to be delivered.*

CLV. The Duties payable on such last-mentioned assessments under Schedule 2 shall be paid at the proper Treasury or office, or to the proper officer for receipt, by such instalments as by this Act is directed, on or before the respective days appointed for the payment of the same.

*Duties on such assessments, where, how, and when payable.*

CLVI. The acknowledgment hereby required to be given on such payment shall be delivered to the Collector or Commissioners, before the time when the amount is hereby made payable, and the Collector or Commissioners shall grant receipt for the same. Such receipt shall be a sufficient discharge for the money so paid, in satisfaction of so much of the assessment as shall be mentioned in such certificate to be so paid.

*Delivery of acknowledgment to Collector or Commissioners.*

*Effect of receipt.*

CLVII. If any person shall neglect to pay the Duties at the time and in the manner hereby directed for payment thereof, or having paid the same, shall neglect to deliver the acknowledgment required to be given on such payment as hereinbefore directed, the Collector or Commissioners shall deliver a duplicate in the ordinary form of the assessment on any person who shall have made default in paying or accounting for the payment of the same, with his name and description, to the collecting officer, in order that he may levy the sum in arrear and unpaid, and such sums shall thereupon be levied according to the provisions hereinafter contained.

*On default, Duties may be levied in the ordinary way.*

CLVIII. When

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**CLVIII.** When the Collector or Commissioners shall not have received a declaration of the intended payment to the Treasury or office of the Duties to be charged under Schedule 2, or shall not be satisfied with such declaration, they shall deliver a duplicate of the assessment to the collecting officer with the name and description of the parties charged therewith as provided in Section CXLIII of this Act.

When parties are not assessed by a number or letter, Commissioners to deliver duplicate to collecting officer for collection.

**CLIX.** If after the receipt of any such declaration, the Duties shall not be paid, the Collector or Commissioners shall cause the name of the defaulter, and the amount of Duties assessed on him, to be inserted in the duplicate assessment of the collecting officer, and such duplicate shall be of the like force and effect for collecting the sum, and such sum shall be levied as if such name and sum had been inserted therein at the time of issuing such duplicate.

If after declaration of intention to pay under number or letter default is made, Collector or Commissioners to deliver duplicate to collecting officer.

PART XVII.

*Recovery of Duties.*

**CLX.** Whenever the amount of any instalment of the said Duties shall not be paid by any person liable to pay the same on the day appointed for the payment of such instalment, the collecting officer shall proceed for the recovery of such instalment by distress and sale of the moveable property, or by the attachment and sale of the immovable property of the person so making default as hereinafter provided.

In default of payment, collecting officer may proceed to recover arrears by distress or attachment and sale of moveable and immovable property.

Seizure and sale of moveable property to be made according to following Rules.

**CLXI.** In the seizure and sale of moveable property for arrears of assessment, the following rules shall be observed :—

**1st.**—The Collector or Commissioners shall employ a person, hereinafter called the Distraining Officer, to distrain the property, and shall furnish to such officer a demand in writing, signed by the Collector or Commissioners or by some officer empowered by him in that behalf, specifying the amount of the arrear for which the distress shall be issued, and the date on which the arrear fell due.

Collector or Commissioners to furnish person distraining with a demand in writing.

**2nd.**—The

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2nd.—The Distraining Officer shall produce the writing as authority for making the distress, and, on the day on which the property shall be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where the property may be lodged or kept.

Defaulter to be served with a copy.

3rd.—The writing shall further set forth that the distrained property will be brought to public sale within three days, unless the amount and the expense of the distress be previously discharged.

Writing to state that the distrained property will be sold.

4th.—When a defaulter shall be absent, a copy of the writing, with the endorsement, shall forthwith be fixed or left at his usual place of residence.

Mode of service when defaulter is absent.

CLXII. When a defaulter, on receiving notice, shall neglect to pay the amount due, or when a defaulter shall have absconded or be otherwise not forthcoming, so that the notice cannot be served upon him, the Distraining Officer shall transmit an inventory of the property distrained to the Collector or Commissioners.

Consequence of defaulter neglecting to pay after notice, or absenting himself.

CLXIII. If a defaulter, whose property has been distrained, shall before the day of sale tender payment of the arrear demanded together with payment of the necessary expenses attending the distress, the Distraining Officer shall receive the amount of the arrear and expenses, and shall forthwith release the property.

On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.

CLXIV. The distress levied shall not be excessive, and the value of the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Distress to be proportionate to the arrear.

Time for distress.

CLXV. The distress shall be made after sunrise and before sunset, and not at any other time.

CLXVI. The Distraining Officer shall have power to force open any stable, cow-house, golah, granary, godown, out-house, or other building, as also to enter any dwelling-house, the outer door of which may be open, (excepting the apartments in such dwelling house appropriated

What places distrainer may force open.

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appropriated for the zenanah or residence of women, which, by the usage of the country, are considered private,) and to break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein.

**CLXVII.** Where a Distraining Officer shall have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, such officer shall represent the same to the head officer of the Police within whose jurisdiction the house may be situated, and on such representation the head officer of the Police shall send a Police Officer to the spot, in the presence of whom the Distraining Officer may force open the outer door of such dwelling-house.

Powers of distrainer to force open doors in the presence of a Police Officer.

**CLXVIII.** The Distraining Officer may also in the presence of the Police Officer, after due notice given for the removal of women within a zenanah, and after furnishing means for their removal in a suitable manner, if they be women of rank who, according to the custom of the country, cannot appear in public, enter the zenanah apartments for the purpose of distraining the defaulter's property therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

Mode of distraining within zenanahs.

**CLXIX.** On the occurrence of an arrear, or at any subsequent period, the Collector or Commissioners shall have authority to attach at their discretion the whole or such portion of a defaulter's immoveable property as they may deem sufficient to answer the amount in arrear; but the previous sanction of the Chief Revenue Authority of the Division shall, in all cases, be necessary for the sale of immoveable property.

Real property may be attached, but previous sanction of the Chief Revenue Authority of the Division necessary for the sale of immoveable property.

**CLXX.** When a defaulter shall not have any moveable property, of which distraint can be made, or when, after the moveable property of such defaulter shall have been distrained and sold, the arrear due, with all expenses of the distress and sale is not liquidated by the proceeds of such sale, the Collector or Commissioners may, with such sanction as aforesaid, proceed to sell the immoveable property of the defaulter.

When Collector may sell the immoveable property in addition to the moveable property of the defaulter.

**CLXXI.** The

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**CLXXI.** The person or officer employed by the Collector or Commissioners to sell moveable property distrained, or immoveable property attached under this Act, shall cause to be affixed to the outer door of the defaulter's house, a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the property will be sold, and shall cause proclamation of the intended sale to be made in the manner usual in the District in such place or places as the Collector or Commissioners may consider necessary to give due publicity to the sale.

**CLXXII.** No sale of immoveable property shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

**CLXXIII.** At the appointed time, the property, moveable or immoveable, shall be put up for sale under the order of the Collector or Commissioners in one or more lots, as the Collector or Commissioners or the Officer employed by them in that behalf shall direct, and shall be sold to the highest bidder.

**CLXXIV.** The property shall be paid for in ready money at the time of sale or as soon after as the Officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same. When the purchaser shall make default in the payment of the purchase money the property shall be re-sold and the defaulting purchaser shall make good to the Distraining Officer any loss arising on such re-sale as well as the expenses attending the same.

**CLXXV.** When the property shall be sold for more than the amount of the arrear, the excess, after deducting expenses of process, shall be paid to the defaulter.

**CLXXVI.** In case any land or house chargeable to Duties under this Act shall be unoccupied and no distress can be found on the same at the time such Duty shall be payable, it shall be lawful for the Collector or Commissioners or for any other Officer duly authorized in that behalf, at any time after to enter the said land or house when



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when there shall be any distress thereupon to be found and the said distress to seize and sell under the like powers as he might have distrained on the same land or house at the time the Duties became due if in the occupation of the same person.

**CLXXVII.** If any person assessed to the Duties charged under this Act shall remove out of the District in which he shall have been assessed, without first paying or discharging all the Duties charged upon him which shall be due, and without leaving in such District sufficient property whence the whole of the said Duties may be raised and levied; or if any person shall reside in any other District than that in which the assessment or charge shall be made on him in pursuance of this Act, and the same shall be in arrear and unsatisfied in the whole or in part, it shall be lawful for the Collector or Commissioners to certify to the Collector or Commissioners of the District within which such person shall reside, the amount of the assessment or charge made upon such person, and remaining in arrear, and unpaid as aforesaid.

Arrears to be levied by distress in the District where the party resides.

**CLXXVIII.** Such last-mentioned Collector or Commissioners shall thereupon cause the whole of the Duties so remaining in arrear and unpaid as aforesaid to be levied, together with the costs and charges attending, in the same manner as if the said person had been assessed in the District of the said last-mentioned Collector or Commissioners.

Mode of levying.

**CLXXIX.** The fees payable upon distrains or attachments under this Act shall be according to a scale which shall be prescribed by the local Government.

Fees upon distrains according to a scale to be prescribed by local Government.

**CLXXX.** Instead of proceeding by distress and sale, or by attachment and sale, or in case of failure to realise thereby the whole or any part of the Duties assessed and payable under this Act, the Collector or Commissioners may, if they think fit, issue a warrant for the arrest of such defaulter. Upon such warrant the officer charged with the execution thereof shall bring the defaulter with all convenient speed before such Collector or Commissioners. If the defaulter shall not then deposit in the hands of the Collector or Commissioners the full amount of the arrears of Duties under this Act due and payable at the time of issuing such warrant,

Instead of proceeding by distress, Collector or Commissioners may issue warrant.

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warrant, or make such arrangement for the payment of the same as shall be satisfactory to the Collector or Commissioners, or satisfy the Collector or Commissioners that he has no present means of paying the arrears and that he has a reasonable excuse for not having paid, such Collector or Commissioners may send him to the Civil Jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the Jail, unless he shall in the meantime pay the full amount of the said arrears. Provided that the time for which a debtor may be confined in Jail under such warrant shall not exceed three calendar months when the amount of such arrears shall not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundred Rupees, or two years in any other case. Provided also that such imprisonment shall not extinguish the liability to pay such arrears, but all property then belonging to the defaulter or afterwards acquired shall be liable to be distrained or attached under the provisions of this Act, in satisfaction of such arrears, or of so much thereof as shall remain unpaid as if no imprisonment had been ordered.

CLXXXI. If any claim shall be made in any Presidency Town to or in respect of any moveable property distrained under this Act, or in respect of the proceeds thereof, by any person not being the party chargeable with the Duties in respect of which such distress or attachment is made, such claim shall be certified by the Commissioners of such Presidency Town to the Small Cause Court, and thereupon such proceedings shall be taken for deciding the same as if the property had been taken in execution under process of such Court and such property had then been claimed by some person not being the party against whom the process issued.

CLXXXII. If in any Station of the Straits Settlement a like claim shall be made in respect of any such moveable property distrained as aforesaid, such claim shall be certified by the Commissioners of such Station to the Court of Judicature thereof, and such claim shall thereupon be heard and determined in a summary way by such Court or by any Division of such Court at their General and Quarter Sessions or otherwise.

CLXXXIII. If in any district or place other than a Presidency Town or a Station in the Straits Settlement such claim as aforesaid shall be made to such moveable property distrained as aforesaid, such claim shall be heard and determined in a summary way by the Collector.

Procedure in other places.

R.

CLXXXIV. If any

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**CLXXXIV.** If any claim shall be made to or in respect of any immoveable property attached under the provisions of this Act, the claimant shall deposit in the hands of the Collector or Commissioners the amount of the Duties in respect of which the attachment was issued, or give security to the Collector or Commissioners for the payment of the same in the event of his not establishing his right in a Civil suit. The sale shall be stayed pending such suit. Such suit shall be commenced within one year from the date of the attachment, and unless it be brought within such period the suit shall not be entertained. In the event of the claimant failing to establish his claim, if any deposit shall have been made, it shall be forfeited in satisfaction of the Duties, and if security shall have been given, the amount shall be levied in the manner provided for arrears of Duties under this Act.

**CLXXXV.** The claim of the Government for all sums payable for the said Duties shall have priority over all private claims, arising after the said Duties accrued due, upon any immoveable property attached, or upon any moveable property distrained upon under this Act. Provided that if the property attached be itself the subject of the assessment in respect of which the attachment shall have issued, the claim of the Government for the arrears due on the said assessment shall have priority over all private claims.

**CLXXXVI.** No goods or chattels shall be liable to be taken by virtue of any execution or other process, warrant, or authority, or by virtue of any assignment, or on any pretence whatever, unless the person at whose suit the execution or seizure shall be sued out or made, or to whom such assignment shall be made, shall, before the sale or removal of such goods and chattels, pay or cause to be paid to the proper officer all arrears of the said Duties which shall be due by the judgment-debtor or assignors at the time of seizing such goods or chattels, or which shall be payable for the year in which such seizure shall be made, provided that the said Duties shall not be claimed under this Section for more than one year.

**CLXXXVII.** When any person chargeable with the Duties hereby made payable as aforesaid, shall be a minor, or when any person so chargeable shall die, in every such case the parent or guardian of such infant, upon default of payment by him,

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him, or the representative of the person so dying, shall be liable to the amount of the assets received, for the payments which the said infant ought to have made, or the person so dying was chargeable with, and if such parent or guardian, or such representative, shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person making default of payment of the said Duties; and the parent or guardian making payments as aforesaid shall be allowed every sum paid for such infant in his accounts, and all representatives shall be allowed to deduct all such payments out of the assets of the person so dying.

**CLXXXVIII.** The claim of the Government for all sums payable for the said Duties shall have priority over all private claims in administering the assets of any deceased person by his representative, or of any bankrupt or insolvent by his assignee, provided that the said Duties shall not be claimed under this Section for more than one year.

Priority of Government claims.

**CLXXXIX.** If this Act shall not come into operation in any district previous to the time appointed for the payment of the first, or any subsequent instalment of the said Duties, or within the year of assessment, it shall be lawful for the Collector or Commissioners executing this Act, who shall have made or allowed any assessment after the period appointed for any such payment, (which they are hereby declared to be competent to do,) from time to time, when the same shall be necessary, to settle and adjust at what time any instalment of which the time for payment shall then have elapsed, shall be paid, in such manner as to them shall appear just and reasonable.

Where the Act shall not come into operation before the time for payment of any instalments shall fall due, Commissioners to adjust times of payment.

**PART XVIII.**

*Application of the Duties.*

**CXC.** All monies arising from the Duties hereby imposed shall be paid into such of the Treasuries of Her Majesty's Government in India as the local Government shall from time to time direct, to an account to be headed Income Tax Account.

All the Duties to be paid in the first instance into the Government Treasury, to an account to be headed Income Tax Account.

**CXCI.** A separate

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A separate account to be kept at the Treasury of the 1 per-cent. Duty.

CXCII. A separate account shall be kept at the said Treasuries of all sums paid in on account of the said one per cent. Duty.

A separate account to be kept of the 1 per-cent Duty paid in Presidency Towns and Straits Settlement, &c.

CXCIII. A separate account shall also be kept of such sums paid in on account of the said one per-cent Duty, as have been assessed upon persons residing in, or carrying on business in or upon any house or land in any Presidency Town or any Station in the Straits Settlement or in any district.

CXCIV. A separate account shall be kept of the Duty paid in respect to the said one per-cent Duty which shall accrue from the dividends or interest paid upon the Government debt and from the salaries of public officers, and from the profits of any Railway or other public Company whose profits shall be derived from different parts of India or of which any part of the profits is derived from a place other than that at which its head Office is situate. The amount comprised in such account of the one per-cent Duty shall be appropriated to the different Governments in India, to be applied according to their discretion for the execution of roads, canals, or other reproductive public works which have been duly sanctioned. Such appropriation shall be made to each local Government in the proportion in which each Presidency or Lieutenant-Governorship or Province under a Chief Commissioner shall contribute to the whole amount of the Duty raised under this Act.

CXCV. The whole of the residue of the sums derived from the said one per cent Duty shall be appropriated to each Presidency, Lieutenant-Governorship, and Province, to the extent contributed by such Presidency, Lieutenant-Governorship, and Province, and shall be expended by the local Government and Chief Commissioners thereof in roads, canals, or other reproductive public works duly sanctioned as aforesaid, in the various Districts under them, as nearly as may be in proportion to the respective contributions of such Districts thereto.

PART XIX.

*Penalties.*

CXCVI. If any officer employed to receive or collect any Duties under this Act:—1stly—shall fraudulently collect or attempt to collect any money on account of Duties under this Act from any person not charged or chargeable therewith; or

Penalty on collecting officers for misconduct in office.

2ndly.—Shall

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*2ndly.*—Shall fraudulently receive or collect, or attempt to receive or collect, from any person more money than is actually charged against such person upon his assessment; or

*3rdly.*—Shall receive or collect any money whatsoever under color of this Act, and not pay over and account for the whole of such money; or

*4thly.*—If any such officer employed or authorized to serve any notice, or to make any distress, attachment, or sale under this Act, shall extort or obtain or attempt to extort or obtain, any sum of money or valuable thing other than such money as he shall have been authorized to receive or collect under this Act, from any person whatever, under color of his employment or authority, or as a bribe for forbearing to exercise any employment or authority under this Act, such officer shall be deemed guilty of a misdemeanor, and shall be liable to imprisonment with or without hard labor for a period not exceeding six months, and shall, for every such offence, forfeit a sum not exceeding one thousand Rupees, and in default, and until such payment be made, shall be liable to further imprisonment with or without hard labor for a period not exceeding six months.

**CXCVI.** If any person, not being employed or authorized to serve any notice required to be given under this Act, or to receive or collect any money under this Act, shall falsely pretend that he is employed or authorized to serve any notice, or to receive or collect any money under this Act, and shall, by such false pretence, obtain or attempt to obtain any money or valuable thing whatsoever from any person whatsoever, the person so offending shall be deemed guilty of a misdemeanor, and shall be liable to the punishment and penalties in the last preceding Section mentioned.

Penalty on persons pretending to be employed to serve notices or collect monies,

**CXCVII.** Any person employed or pretending to be employed to make any distress under this Act, who shall knowingly enter the apartments of any Hindoo or Mahomedan woman, which, by the usage of the country, are deemed private, or shall force open the outer door of a dwelling house contrary to the provisions of the 17th Part of this Act, shall be liable to be imprisoned with or without hard labor for any period not exceeding three months,

Punishment for unlawful entry.

**CXCVIII.** If any

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**CXCVIII.** If any person shall take away any moveable property duly distrained under this Act, knowing it to be distrained while subject to such distress, such person shall, on conviction, be liable to be imprisoned for a period not exceeding three months, or until he sooner restores the property, or makes good the value of it to the Distraining Officer, and shall also be liable to a fine not exceeding the value of such property.

Penalty for forcibly or clandestinely taking away distrained property.

**CXCIX.** If any person shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully aid or assist in forging, counterfeiting, or altering any certificate of the Collector or the Commissioners or of any Ex-Officio or Special Assessor, or of any Deputy Collector acting in the execution of this Act, or any certificate or any acknowledgment, or any receipt which any Officer is, by this Act, authorized to give on the receipt of any money payable under this Act, or shall utter any such forged, counterfeited, or altered certificate or acknowledgment, or receipt as aforesaid, with intent to defraud Her Majesty, or the Secretary of State in Council, or the Government, or any person whomsoever, every person so offending and being lawfully convicted thereof, shall be adjudged guilty of felony, and shall be liable, if a European or American, to be sentenced to penal servitude for any period not exceeding ten years, or to imprisonment with or without hard labor for any term not exceeding two years, and, if not a European or American, to be sentenced to transportation for any period not exceeding fourteen years, or to imprisonment with or without hard labor for any term not exceeding seven years.

Penalty for forgery.

**CC.** Every person who, with the intention of inducing any Collector, or any other Officer employed to carry out the provisions of this Act, to refrain from exercising any of the lawful powers vested in such Collector or other Officer under the authority of this Act, or with the intention of inducing any person liable to pay any Duties under this Act, to refrain from making any return or declaration, or doing any act, or making any payment required by this Act, shall assault, or make a show of assaulting, or shall wrongfully restrain or attempt wrongfully to restrain, or shall overawe by means of an unlawful assembly, or attempt so to overawe any such Collector or other Officer, or any such other person as aforesaid, and all persons who shall combine by the closing of shops or otherwise to induce, or who shall do any act with intent to induce any other person or persons to break

Penalty for assaulting Collector, &c.

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break the public peace or otherwise to obstruct the operation of this Act, shall be liable to a sentence of imprisonment with or without hard labor for a period not exceeding twelve months, or to a fine not exceeding five hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding twelve months.

CCI. If any person shall, by violence, threats, or otherwise, intimidate or attempt to intimidate any other person liable to pay any Duties under this Act, with the intention of preventing such person from making any return or declaration, or doing any act, or making any payment required by this Act, he shall be liable to a sentence of imprisonment with or without hard labor for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

CCII. If any person, being legally bound by an oath or affirmation to state the truth to any public servant, or to any other person authorized to administer an oath or affirmation in any matter relating to this Act, states to such public servant or other person as aforesaid, touching that subject, as true, that which he knows to be false, or does not believe to be true, he shall be punished with imprisonment with or without hard labor for a term which may extend to three years, and shall also be liable to a fine not exceeding five thousand Rupees.

CCIII. Any charge to be preferred under the last preceding Section for any of the offences therein mentioned, in regard to any affidavit, deposition, or affirmation, shall and may be tried and determined in the place where such affidavit, deposition, or affirmation shall be exhibited to the Collector or Commissioners in pursuance of this Act; but if such offence shall have been committed by any European British subject, the charge shall be tried and determined by one of Her Majesty's Supreme Courts of Judicature.

CCIV. If any person shall knowingly and wilfully make or deliver any false or fraudulent account, statement, or declaration in any return which he is required to make under the provisions of this Act, such person shall for every such offence, if not otherwise provided

Penalty for intimidating with the intention of preventing persons from making returns, declarations, or payments, &c.

False deposition.

Charge to be preferred where perjury committed.

Penalty for making false returns of profits or of the value of lands.



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provided for in this Act, be liable to forfeit treble the amount of Duties to which he is justly chargeable, in addition to a further sum not exceeding five hundred Rupees.

CCV. Every person who shall knowingly and wilfully aid, abet or assist, or incite or induce any other person to make or deliver any such false or fraudulent account, statement, or declaration as aforesaid, shall, for every such offence, forfeit the sum of five hundred Rupees.

Penalty for accessories before the fact.

CCVI. If any person shall knowingly make any false claim for any abatement under the first Schedule of this Act, or shall be guilty of any fraud or misrepresentation in making such claim, or in obtaining or endeavoring to obtain any such abatement, or knowingly shall untruly declare the amount or value of any loss under the rule relating to Schedule 1, or the amount or value of any abatement made or agreed to be made in the rent of the land or house in his occupation on account of such loss, with intent fraudulently to obtain any such abatement, he shall forfeit treble the amount of Duties justly chargeable on him in respect of the said land or house, in addition to a further sum not exceeding five hundred Rupees; and if the occupier of any such land or house, or any other person whatever, shall aid, abet, or assist any person charged to the said Duties in making such false or fraudulent claim, or shall fraudulently or untruly declare the amount or value of any abatement made or agreed to be made in the rent of the said land or house, or the amount of such loss, with intent fraudulently to obtain for the person so charged any abatement as aforesaid, every such person shall forfeit a sum not exceeding five hundred Rupees.

False claim to abatement under Schedule 1.

CCVII. If any person shall knowingly make any false claim to any abatement under any Schedule of this Act, or to any exemption or deduction under the 13th or 14th Parts of this Act, or shall knowingly be guilty of any fraud or contrivance in making any claim under any of the said Schedules, or under the said 13th or 14th Parts of this Act, or in obtaining any abatement, or any exemption or deduction, or any certificate as aforesaid, under any of the said Schedules, or the said 13th or 14th Part, or shall fraudulently conceal or untruly declare any income or amount of income, or any sum which he may have charged, or have been entitled, under the authority of this Act, to charge against any other person, or which he may have deducted or retained, or have been or be entitled as aforesaid, to deduct or retain for any

False claim to abatement or exemption.

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any payment to which such person claiming exemption as aforesaid may be liable ; or if any such person shall fraudulently make a second claim for the same cause —every such person so offending shall forfeit a sum not exceeding five hundred Rupees and treble the Duties chargeable in respect of all the sources of his income, as if such claim had not been made or allowed ; and if any person shall knowingly and wilfully aid, abet, or assist any such person in committing any such fraud as aforesaid, the person so aiding, abetting, or assisting, shall forfeit a sum not exceeding five hundred Rupees.

CCVIII. Any person who shall be guilty of any offence mentioned in Section LXXV of this Act, in regard to the Composition therein mentioned, shall forfeit a sum not exceeding five hundred Rupees and treble the Duties justly chargeable in respect of all the sources of his income.

Penalty under Section LXXV relating to composition.

CCIX. If any person, being duly summoned to appear before the Collector or Commissioners as aforesaid, for any of the purposes mentioned in this Act, shall refuse or neglect to appear before the Collector or Commissioners at the time and place appointed for that purpose, or if any such person, being summoned, shall appear before the Collector or Commissioners, but shall refuse to be sworn or to subscribe such oath as aforesaid, or having taken and subscribed the same, shall refuse to answer any question touching the matters depending before the Collector or Commissioners, every person so offending shall forfeit a sum not exceeding two hundred Rupees for every such offence.

Refusal to appear before Commissioners.

CCX. If any person who ought by this Act to deliver any list, return, or declaration, shall refuse or wilfully neglect so to do within the time limited in any notice given under this Act, or shall under any pretence wilfully delay the delivery thereof, every such person so offending shall forfeit any sum not exceeding two hundred Rupees, and shall be liable to be assessed in treble the amount with which he is justly chargeable.

Penalty for refusal or neglect to deliver list, return, or declaration.

CCXI. If any person required by the Collector or Commissioners under this Act, to make out, verify, or deliver any return required by this Act, or to appear before the Collector or Commissioners, shall refuse or wilfully neglect to make out, verify, or deliver such return, or to appear before the Collector

Penalty for refusal or neglect to deliver returns or to appear before Collector or Commissioners, when required to do so.

Collector

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Collector or Commissioners, within the time limited by the Collector or Commissioners in pursuance of this Act, every such person so offending shall forfeit any sum not exceeding two hundred Rupees, and shall be liable to be assessed in treble the amount with which he is justly chargeable.

CCXII. If any person, being legally bound by an oath or solemn affirmation of secrecy under this Act, shall wilfully disclose any matter which by such oath or affirmation he is bound to keep secret, he shall be liable to be imprisoned with or without hard labor for a period not exceeding three years and shall also be liable to a fine not exceeding five thousand Rupees.

Penalty for violation of secrecy.

CCXIII. No person who shall not have been served in the manner directed by Section XXXVIII of this Act with the notice provided by that Section, shall be liable to the penalties before mentioned for not delivering a return or declaration of his profits or income.

No person not served with particular notice to be liable to penalties.

CCXIV. If any person shall wilfully obstruct any Assessor or Collecting Officer, or any officer duly authorized in the execution of this Act in the due execution of his office or duty, such person shall, for every such offence, forfeit a sum not exceeding five hundred Rupees.

Penalty for obstruction to officers in due execution of duty.

CCXV. If any person chargeable with any Duties under this Act, shall, by fraudulently changing his place of residence or by fraudulently converting his property or any part thereof, or by fraudulently conveying or assigning, or pretending to convey or assign the same, or by fraudulently altering any security with relation to such property, or by fraudulently rendering the same or any part thereof temporarily unproductive, in order that such person may not be charged for the same, or shall by any falsehood, wilful neglect, fraud, or contrivance whatsoever used or practised, avoid, or attempt to avoid being charged and assessed according to the true intent and meaning of this Act, every such person shall, on proof thereof before the Collector or Commissioners acting for the place wherein such person shall be chargeable, be charged and assessed in treble the amount of the charge which ought to have been made on such person; and if in any such case such person shall have been assessed in an amount less than the assessment

Penalty for avoiding assessment by fraudulent removal or fraudulent disposition of property.

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ment which ought to have been made on him, he shall be assessed and charged in treble the amount of the difference between the sum with which such person shall have been charged and the sum with which he ought to have been charged, to be added to such assessment, and shall also be liable to be imprisoned with or without hard labor for a period not exceeding two years, and to a fine not exceeding one thousand Rupees.

CCXVI. If any person, being assessed to the said Duties, shall remove out of the District where he shall have been assessed to the said Duties, without first paying or discharging all the said Duties charged upon him which shall then be due and payable, and without leaving in such District sufficient property whereon the said Duties in arrear may be raised and levied, and the same shall remain in arrear and unpaid for the space of twenty days after the time appointed by this Act for payment thereof, every such person shall forfeit (over and above the said Duties so left unpaid as aforesaid,) a sum not exceeding two hundred Rupees.

Penalty for removing from District after assessment without leaving sufficient property to satisfy Duties.

CCXVII. Nothing in this Act contained shall prevent any person being punished for any offence in any manner otherwise provided by law. Provided that if any proceedings be taken under this Act for the punishment of any person for an offence, a conviction or acquittal shall be a bar to any other proceedings for the same offence.

Saving of punishment otherwise provided by law.

PART XX.

*Mode of enforcing Penalties.*

CCVXIII. Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable, exceed that which the Magistrate, Joint Magistrate, or other Officer as aforesaid is competent to award under the laws for the time being in force in the Presidency or place in which such Magistrate, Joint Magistrate, or other Officer as aforesaid is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other Officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given

Cognizance of offences.

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given before such Magistrate, Joint Magistrate, or other Officer as aforesaid shall appear to such Magistrate, Joint Magistrate, or other Officer sufficient for the conviction of the accused.

CCXIX. Except as aforesaid, all offences declared to be punishable under this Act with fine or forfeiture, or fine and imprisonment, may be tried in the District or place in which the offence was committed, or in which the person charged with the same is apprehended.

District in which certain offences shall be tried.

CCXX. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants, and in such case every such Assistant may exercise all the powers vested in a Magistrate by any law for the time being in force, subject to all the rules applicable to Criminal cases deputed to such Assistant acting judicially.

Magistrate may refer offences punishable with fine to his Assistants for trial.

CCXXI. The local Government may give general authority to any such Assistant to exercise, without reference by a Magistrate, any of the powers which such Assistant is hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant within one month from the date of conviction.

Local Government may authorize Assistants to exercise such powers without reference by Magistrate.

CCXXII. A Magistrate may at any time call from any of his Assistants, any case pending before such Assistants.

Magistrate may call for any case pending before such Assistant.

CCXXIII. If any offence which by this Act is declared to be punishable with fine and imprisonment, or imprisonment only, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by this Act the offender is declared to be liable upon conviction.

Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.

CCXXIV. If any offence which by this Act is declared to be punishable with fine or forfeiture, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature

Summary jurisdiction in respect of certain offences committed within the limits of Supreme Court.

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Judicature established by Royal Charter, such offence shall be punishable upon summary conviction by any Magistrate of Police of the Presidency Town or Station in which such Court is held.

CCXXV. No conviction, order, or judgment under the last preceding Section shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only.

CCXXVI. All other offences punishable under this Act, which shall be committed within the local limits of any Court of Judicature established by Royal Charter, shall be punishable by such Court.

CCXXVII. All fines, forfeitures, or penalties imposed under the authority of this Act for offences punishable by any Magistrate, or person lawfully exercising the powers of a Magistrate, or Assistant Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of any of the above-named Officers.

CCXXVIII. In case any such fines, forfeitures, or penalties shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Procedure until return is made to warrant of distress.

CCXXIX. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, forfeiture, or penalty, and the same shall not be forthwith paid,

Imprisonment, if distress not sufficient.

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paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, ~~where~~ to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

CCXXX. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine, forfeiture, or penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Levy of fines from European British subjects.

CCXXXI. Whenever an award of hard labor is made under this Act, the Court shall not commute such labor to the payment of a fine under Regulation II. 1834 of the Bengal Code.

Award of hard labor not to be commuted to the payment of a fine.

CCXXXII. All forfeitures or penalties not exceeding two hundred Rupees, imposed by this Act, exclusive of any increased Duties chargeable under this Act, may be recovered before the Collector or before two or more Commissioners in and for the place wherein the offence shall have been committed or the offender shall have been assessed.

Penalties not exceeding 200 Rs., and increased assessments recoverable before Collector or Commissioners.

CCXXXIII. The Collector or Commissioners shall take cognizance of any offence of which he or they shall have cognizance under the last Section, upon information or complaint in writing made to them, and upon a summons to the party accused to appear before the Collector or Commissioners at such time and place as they shall fix, or without such summons, in case the person shall be guilty of the offence in their presence.

Cognizance of offences how to be taken by Collector or Commissioners.

CCXXXIV. The

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CCXXXIV. The Collector or Commissioners shall examine into the matter of fact and proceed to hear and determine the same Adjudication to be in a summary way. in a summary way, and upon proof made thereof, either by voluntary confession of the party accused, or by evidence of one or more credible witness or witnesses, or otherwise, as the case may require, to give judgment for the penalty, or if the Collector or Commissioners shall think proper to mitigate the same for such part of the penalty as he or they shall direct.

CCXXXV. In such case the Collector or Commissioners shall assess the penalty upon the party, and charge the same in the assessment to which the penalty adjudged shall particularly relate, and in addition to the Duties in case the party shall be charged therewith. Penalty to be charged in addition to Duties assessed.

CCXXXVI. The forfeitures or penalties so adjudged shall be levied in like manner as the Duties under this Act. Levy of forfeitures or penalties.

CCXXXVII. The informer shall, in all cases, upon the Collector or Commissioners certifying that he has conducted himself properly in regard to his information, be entitled to receive one moiety of the amount of the penalty awarded exclusive of any increased assessment; and when more informers than one are concerned, they shall be entitled to such moiety in such shares as the Collector or Commissioners shall award. Reward to informers.

CCXXXVIII. The adjudication of the Collector or Commissioners shall in all cases cognizable by them be final and conclusive to all intents and purposes, without power of appeal from the same, and the proceedings of the Collector or Commissioners shall not be removeable by any process whatever into any Court of Law or Equity, or be subject to revision. Adjudication of Collector or Commissioners final.

CCXXXIX. In any proceeding for the recovery of any such Duties or penalties respectively granted or imposed by this Act, such Duties and penalties respectively shall be recoverable. Costs of suit recoverable besides penalty.



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verable with full costs of suit, and all charges and expenses attending the same.

CCXL. Whenever by this Act any increased rate of Duty is imposed as a penalty, or as part of, or in addition to, any duty, such increased rate of Duty shall be added to the assessment, and be collected and levied in like manner as any Duties included in such assessment may be collected and levied.

CCXLI. All penalties, forfeitures, and fines levied under this Act, after deducting any portion thereof hereby authorized to be paid as aforesaid, shall be paid to the account to be headed Income Tax Account, in Section CXC of this Act mentioned, and shall be held available for the purposes of this Act.

PART XXI.

*Miscellaneous.*

CCXLII. Every provision in this Act contained and applied to the Duties in any particular Schedule, which shall also be applicable to the Duties in any other Schedule, and not repugnant to the provisions for ascertaining or charging the Duties in such other Schedule, shall, in ascertaining and charging the same, be applied as fully and effectually as if the application thereof had been so expressly and particularly directed.

CCXLIII. It shall be lawful for the Governor-General of India in Council to postpone, for such period as he shall deem necessary, the period for this Act to come into operation in any part of India. But no other tax or duty shall during such period be leviable in that part of India except such as could be lawfully levied in addition to the Duties provided by this Act.

CCXLIV. No action or other proceeding shall be had or taken against any Officer for any thing done by him in or relating to the imposition or levying of any tax or duty heretofore imposed or levied

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or levied with the sanction of the Governor-General of India in Council or of the local Government; and every tax or duty heretofore assessed or imposed by any such Officer with such sanction as aforesaid, so far only as concerns such assessment or tax or duty for the current year, may be levied or collected in the manner heretofore sanctioned by the Governor-General of India in Council or by the local Government.

CCXLV. No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Notice and limitation of suits.

CCXLVI. *Clause 1.* It shall be lawful for the Governor-General of India in Council, from time to time, to prescribe and issue the forms of returns, declarations, acknowledgments, certificates, oaths, affirmations, contracts of composition, and the forms of all other documents and proceedings required by this Act, and to vary or alter the same from time to time.

Power to Governor-General in Council to issue forms.

*Clause 2.* Such forms shall be published at least three times in the Government Gazette of the several Presidency Towns and of all the places where any Government Gazette shall be published.

*Clause 3.* When they shall have been so published, and until they shall be altered, varied, or annulled by any subsequent order of the Government, the said forms shall be observed by all persons required by this Act to do the matters referred to in such forms, and all notices given, and all returns or declarations made, and all oaths or affirmations taken or made, and all proceedings had according to such forms respectively, shall, if otherwise valid, be deemed valid and effectual.

CCXLVII. It shall be lawful for the Governor-General of India in Council, from time to time, to allow from the Duties collected under this Act, any salaries or any remuneration, whether by way of fixed fees or of percentage on sums realised or otherwise.

Power to Governor-General in Council to allow salaries.

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wise, to any officer or person who shall be appointed under this Act for the performance of any of the Duties prescribed by this Act.

CCXLVIII. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such meanings:—

Interpretation of terms.

1. Words importing the singular number shall include the plural number and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

2. The Word "India" shall mean the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled an Act for the better Government of India.

3. The expression "Governor-General in Council" shall include the President of the Council of the Governor-General of India in Council.

4. The words "Local Government" shall mean the persons immediately administering the Executive Government in each Presidency, Lieutenant-Governorship, or Province in India.

5. The expression "Lieutenant-Governorship" shall mean any part of India for the time being under the Government or administration of any Lieutenant-Governor appointed under, or by virtue of any Act of the Imperial Parliament relating to India.

6. The word "Division" shall mean any Division of, or for the purposes of, Revenue.

7. The expression "Chief Revenue Authority" shall mean the person or Board exercising the chief authority for the time being in matters of revenue alone in any Presidency, Lieutenant-Governorship, or Province, though subject to the order of the local Government and shall not include the local Government. When in any Presidency, Lieutenant-Governorship, or Province, there shall be no person exercising such chief revenue authority throughout such Province, other than the person administering the Executive Government, the expression shall mean the person or Board

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Board exercising chief authority in matters of revenue in any Division of such Presidency, Lieutenant-Governorship, or Province.

8. The word "Collector" shall include any Officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated.

"Collector."

9. The word "Magistrate" shall include an Assistant Magistrate exercising, or any person duly invested with, the powers of a Magistrate. It shall not include Justice of the Peace.

"Magistrate."

10. The word "Land" shall include and extend to all immoveable property, and all hereditaments and tenements whatsoever, whether corporeal or incorporeal, of the nature of immoveable property, except houses, and all estates or interests therein, whether freehold or chattel, or held by lease, or howsoever otherwise, or whether partial or derivative or otherwise, and whether in divided or undivided shares.

"Land."

11. The word "House" shall include and extend to all messuages and buildings used for the purpose of habitation; and all warehouses, counting houses, factories, and shops, and to all out-houses, offices, godowns, and buildings attached to, or used with, or for the purposes of, such messuages, buildings, warehouses, factories, or shops.

"House."

12. The word "Rack-rent" shall mean the full rent or value at which lands or houses are worth to be let for the year.

"Rack-rent."

13. The word "Owner," as applied to land or houses, shall include any person beneficially entitled in possession to an absolute estate, or to any lesser estate, whether freehold or chattel, or partial or derivative, or otherwise, at law or in equity; or any person entitled to any such estate in trust for another person.

"Owner."

14. The word "Holder," as applied to land or houses, shall include any person in possession or in the receipt of the rents and profits of land or houses under any claim to be entitled to any estate, whether freehold or chattel, partial or derivative, or otherwise, at law or in equity; and whether on his account or on account of any other person.

"Holder."

15. The word "Person" shall include any Corporation.

"Person."

16. The

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16. The word "Representative" shall extend to any person who is a legal representative of a person deceased, and shall include, in the case of a deceased person subject to the Law of England, the heirs or devisees of such a person in regard to real estate, and the executors or administrators of such person in regard to personal estate; and in case of a deceased Mahomedan or Hindoo, the heirs and persons legally entitled to succeed to the property of such person. It shall also include the successors of a Corporation.

17. The word "Company" shall extend to any Society, Association, Fraternity, or Partnership of any kind whatever, of or carried on by more than six persons.

18. The word "Trade" shall include any manufacture, and any business, adventure, or concern in the nature of a trade.

19. The word "Profession" shall extend to any employment, vocation, or calling, other than a trade.

20. The word "Profits" shall include gains of every kind.

21. The word "Lunatic" shall include every person of unsound mind, and every person being an idiot.

22. The word "Oath" shall include an affirmation in the case of any person entitled by law to make any affirmation in lieu of any oath or affidavit.

CCXLIX. This Act shall commence and take effect from and after the 31st day of July 1860, and together with the Duties therein contained, shall continue in force until the 1st day of August 1865, and no longer.

Provided that this Act and the said Duties shall not then cease with respect to any assessment which ought to have been made before the said last-mentioned day, but which shall not then have been made and completed; nor with respect to any of the said Duties which shall have been assessed and shall then remain unpaid; nor with respect to any penalty before then incurred; nor with respect to any offence of which any person shall have been guilty before that day; nor with respect to any deduction of the said Duties, or any portion thereof, authorized by Law, to be made out of any rent, interest, or other annual payment which shall

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shall become due or payable before the said last-mentioned day ; nor with respect to any penalty for refusing to allow any such deduction, although such refusal may be after the said last-mentioned day ; nor shall the said Duties cease in any case where the assessments for the preceding year shall not have been completed before the said 1st day of August 1865.

And that all the powers and provisions of this Act shall continue in force for making and completing all such assessments as aforesaid, and for levying and recovering the Duties so assessed or to be assessed, and all arrears of such Duties, and also for re-assessing the same in default of payment in the manner herein directed, and for making and allowing such deduction as aforesaid, and for the suing for, adjudging, and recovering any penalty which shall have been or may be incurred, and for the punishment of any offence of which any person shall have been guilty before that day.

ACT No. XXXIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th July 1860.)

*An Act relating to Emigration to the British Colony of Natal.*

WHEREAS it is expedient to render lawful the Emigration of laborers being Native Inhabitants of British India to the British Colony of Natal, and to extend the provisions of Act XXXI of 1855 (relating to the Emigration of Native laborers to the British Colonies of St. Lucia and Grenada) to the Emigration of Native Inhabitants of British India who may emigrate to Natal ; It is enacted as follows :—

I. Act XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colony of Natal, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed.

II. All the provisions of Act XXXI of 1855 and of the Schedule thereto shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to Natal, and that Act shall be read as if the words "or the British Colony of Natal" had been inserted therein after the words "Saint Lucia and Grenada" or "Saint Lucia or Grenada," wherever those words occur in the said Act. Provided that the probable length of the voyage to Natal from the Ports of Calcutta, Madras, and Bombay shall for the purposes of this Act be deemed to be—

From

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From the Port of Calcutta,.....	12	Weeks.
„ the Port of Madras,.....	10	„
„ the Port of Bombay,.....	10	„

and provided that it shall be lawful for ships or vessels carrying Emigrant laborers to the said Colony of Natal to sail at any season of the year.

III. This Act shall take effect as to the said Colony of Natal from the day when the Governor-General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided, and such measures taken, as the Governor-General in Council deems necessary for the protection of such Emigrants during their residence in the said Colony of Natal and in respect of their return to India.

Commencement of Act.



ACT No. XXXIV OF 1860.

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PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 2nd August 1860.)*

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*An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances.*

WHEREAS fines and penalties have been imposed and levied by Officers of Government in respect of acts committed during the late disturbances; and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes; and whereas it is expedient to indemnify all Officers of Government and other persons acting under the authority of Officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the 10th day of May 1857 in respect of the said fines, penalties, assessments, and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the Executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments, and contributions, and the said acts; It is enacted as follows:—

1. All fines, penalties, assessments, and contributions imposed since the 10th day of May 1857 in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any Officer of Government, or by any person acting under the authority of an Officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government or shall have been or shall be ratified by the Executive Government; and all Officers

Certain fines, penalties, &c., imposed since 10th May 1857 to be deemed to have been duly imposed and levied.

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Officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments, and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof. *Proviso.* Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment, or contribution not already levied.

II. All acts done since the 10th day of May 1857 in connection with the late disturbances by Officers of Government, or by persons acting under their authority or otherwise, in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such Officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

*Officers indemnified for certain acts done since 10th May 1857.*

ACT No. XXXV OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 2nd August 1860.)

*An Act relating to the Transportation of Convicts.*

Preamble. WHEREAS it is expedient to provide that convicted offenders sentenced to transportation shall be transported to such places only as the Governor-General of India in Council shall appoint ; It is enacted as follows :—

I. From and after the passing of this Act, whenever any person convicted of an offence which is punishable with transportation shall be sentenced by any Court within the British Territories in India to be transported, such Court shall not in its sentence specify the place to which such person shall be sent for the purpose of undergoing the sentence of transportation.

Place of transportation not to be specified in sentences.

II. It shall be lawful for the Governor-General of India in Council from time to time to appoint a place or places within the British Territories in India to which persons sentenced to transportation shall be sent : and the local Government of the Presidency or place in which such persons shall have been sentenced, or some Officer duly authorized by the local Government, shall give orders for their removal to the place or places so appointed.

Governor-General in Council to appoint a place or places.

Local Government to direct removal of persons sentenced to such place or places.

III. In every case in which a sentence of transportation is passed, the person upon whom such sentence is passed, until he is transported, shall be dealt with in the same manner

Provision for intermediate custody.

as

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as if sentenced to imprisonment with hard labor, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

IV When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the Government to order the removal of such person from the place in which he is so undergoing transportation.

Execution of sentences of transportation passed on persons already undergoing transportation under a previous sentence.

V. Nothing in this Act shall affect the provisions of Act XXIV of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts*), or the provisions of any Act of Parliament passed in the United Kingdom of Great Britain and Ireland for punishing mutiny and desertion.

Saving Clause.

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## ACT No. XXXVI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 2nd August 1860.)

*An Act to consolidate and amend the law relating to Stamp Duties.*

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to Stamp Duties; It is enacted as follows:—

I. From the time when this Act shall come into force, Regulation XII. 1826 (for raising and levying Stamp Duties within the Town of Calcutta) with the corresponding Regulation enacted on the 14th June 1827 and registered in the Supreme Court at Calcutta on the 12th July 1827, and Regulation X. 1829 of the Bengal Code (for consolidating into one Regulation, with modifications, the existing enactments relating to the collection of Stamp Duties), Regulation XIII. 1816 of the Madras Code (for modifying and amending the Rules before enacted regarding stamped paper and Stamped Cadjans; and for consolidating the Fees payable on the institution of suits, and on exhibits and summonses for witnesses, with the Duty levied by means of Stamps), Regulation XVIII. 1827 of the Bombay Code (for levying a Stamp Duty on certain papers within the Territories subordinate to the Presidency of Bombay), Regulation III. 1828 of the same Code (for subjecting to the Stamp Duty certain Plaints and other Papers exempted therefrom under Regulation XVIII of 1827), Regulation VI. 1828 of the same Code (for extending in the same manner as in suits before the Courts of Civil judicature, Stamps to suits cognizable by Collectors under the operation of Chapter VIII Regulation XVII of 1827 or any other now in force), Regulation VIII. 1830 of the same Code (for changing the Counter-Stamp to be impressed on Stamped Paper and other material), Regulation III. 1831 of the same Code (for subjecting to the Stamp Duty copies of decrees passed by Native Commissioners, exempted therefrom under Regulation XVIII of 1827), Regulation XIV. 1831 of the same Code (for rescinding that part of Section VII Regulation XVIII of 1827, which requires all Stamped Paper to be endorsed with the Official signature

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*signature of some person belonging to the Office of Superintendent of Stamps, and prescribing how that duty shall henceforth be performed), and Section XXXVII of Act X of 1859, (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal)—are repealed, except in so far as they rescind other Regulations or parts of other Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force.*

II. For every Deed, Instrument, or Writing which shall be executed from the time when this Act shall come into force, and which shall be of any of the kinds specified as requiring Stamps by the Schedule A. annexed to this Act, there shall be payable to Government a Stamp Duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

III. If any person shall draw, accept, endorse, negotiate, pay, or receive payment of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar Instrument, or if any person shall make, execute, sign, or be a party to any Deed, Instrument, or other Writing, engrossed on unstamped or insufficiently Stamped paper or other material, which should bear a Stamp of the value set forth in Schedule A, such person, so offending, shall forfeit a sum not exceeding one hundred Rupees, or a sum equal to ten times the value of the Stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

IV. The Governor-General in Council shall prescribe the form, and material of the Stamps to be used, and the mode and place of impressing, affixing, or denoting thereon the value thereof under the provisions of this Act, and may from time to time alter and vary such orders. All orders made by the Governor-General in Council under this Section shall be published in the Official Gazettes of the several Presidencies and places in which such orders are to be in force.

V. The Duty imposed by this Act on every Receipt, and on every Draft or Order for the payment of money on demand, and bearing the date on which the Draft or Order is made, may be denoted

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denoted by a Stamp impressed upon the paper whereon any such Instrument is written, or by an adhesive Stamp affixed thereto. It shall be lawful, until the Governor-General in Council shall direct to the contrary by an order to be published in the Gazette, to use a Postage Stamp of the value of half anna on every Receipt, Draft, or Order for which a half anna Stamp is required by this Act.

VI. In any case where an adhesive Stamp shall be used for the purpose aforesaid on any Receipt or upon any Draft or Order chargeable with the Duty of half anna or of one anna by this Act, the person by whom such Receipt shall be given or such Draft or Order signed or made, shall, before the Instrument shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name, or the initial letters of his name, or in such other manner as to show that such Stamp has been made use of and so that the same may not be again used; and if any person who shall write or give any such Receipt or discharge or make or sign any such Draft or Order with any adhesive Stamp thereon, shall not *bonâ fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

VII. The Duties imposed by this Act on Foreign Bills of Exchange shall be paid on account of all Bills drawn within, but payable out of, the British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be payable within those Territories, or shall therein be endorsed, transferred, or otherwise negotiated, wheresoever the same may be payable; and the Duties so imposed on Bills drawn out of the British Territories in India, shall be denoted by adhesive Stamps to be affixed to such Bills as hereinafter directed.

VIII. Every Bill of Exchange which shall purport to be drawn at any place out of the British Territories in India shall, for all the purposes of this Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same may have been drawn within those Territories.

IX. The holder of any Bill of Exchange drawn out of the British Territories in India and not having a proper adhesive Stamp affixed thereon as herein directed shall, before he shall present the same for payment, or endorse, transfer, or in any manner negotiate such Bill, affix thereon a proper

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proper adhesive Stamp for denoting the Duty by this Act charged on such Bill; and the person who shall endorse, transfer, and negotiate such Bill shall, before he shall deliver the same out of his hands, custody, or power, cancel the Stamp so affixed by writing across the same as his endorsement his name or the name of his firm and the date of the day and year on which he shall write the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such other manner as to show that the Stamp has been made use of and so that the same may not be again used: and if any

Penalty for negotiating such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

person shall present for payment or shall pay or endorse, transfer or negotiate any such Bill as aforesaid whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person, who ought as directed by this Act to cancel such Stamp in manner aforesaid, shall refuse or neglect so to do, such person so offending in any such case shall be liable to the penalty prescribed in Section III of this Act, and no person who shall take or receive from any other person any such Bill as aforesaid either on payment or as a security or by purchase or otherwise, shall be entitled to recover thereon or to make the same available for any purpose whatever unless at the time when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereon and cancelled in the manner thereby directed.

X. If any person shall, within the British Territories in India, draw and issue any Bill of Exchange payable out of the British Territories in India, purporting to be drawn in a set of three, and shall not draw and issue, on paper duly Stamped as required by law, the whole number of Bills which such Bill purports the set to consist of; or if any person shall within the British Territories in India transfer or negotiate any such Bill of Exchange as aforesaid purporting to be drawn in a set of three, and shall not at the same time transfer or deliver on paper duly Stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, every such person so offending in any of such cases, shall be liable to the penalty prescribed in Section III of this Act; and if any person shall take or receive in the British Territories in India any such Bill as aforesaid either in payment, or as a security or by purchase or otherwise, without having transferred or delivered to him duly Stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, he shall not be entitled to recover on any such Bill or to make the same available for any purpose whatever.

Penalty for drawing and issuing or transferring or negotiating Bills purporting to be drawn in a set of three and not drawing the whole number of the set. Penalty on taking or receiving such Bills.

XI. If any



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**XI.** If any person shall affix or use any adhesive Stamp, which to his knowledge shall have been taken off or removed from any paper whereon any Receipt or any Draft, Order, or Bill of Exchange shall have been written, to or for any Receipt, Draft, Order, or Bill of Exchange, or any paper whereon any such Receipt, Draft, Order, or Bill of Exchange shall be or be intended to be written; or if any person shall do or practise or be concerned in any fraudulent act, contrivance, or device whatever not specially provided for by this or some other Act, with intent to defraud the Government of any Duty imposed by this Act upon Receipts or upon Drafts, Orders, or Bills of Exchange—every person so offending in any of the said several cases shall forfeit a sum not exceeding two hundred Rupees.

**XII.** Except as otherwise provided by this Act, no Deed, Instrument, or Writing for which any Duty shall be payable under Section II of this Act, shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon in any such Court or by any public Officer, or shall be registered in any public Office or authenticated by any public Officer, unless such Deed, Instrument, or Writing be upon a Stamp of a value not less than that indicated to be proper for it by the said Schedule. Provided that every Deed, Instrument, or Writing liable to Stamp Duty shall be admitted as evidence in any Criminal proceeding, although it may not have the Stamp required by law impressed thereon or affixed thereto.

**XIII.** *First.*—Deeds, Instruments, and Writings executed on unstamped or insufficiently Stamped paper from accident, ignorance, inadvertence, mistake, or from other unavoidable cause, may be impressed with the requisite Stamp or Stamps, on application being made to the Collector of Stamp Revenue, after payment of so much as will make up the proper amount of Stamp Duty, and the penalties hereinunder stated, or such mitigated penalty as the local Government or any Board or Officer authorized by the local Government may prescribe. Provided always that the payment of such penalty shall exempt the person making the same from any other penalty provided by this Act for such neglect or omission, and that if any such other penalty shall already have been imposed, then the same shall be taken as far as it goes in reduction of any penalty arising under this Section.

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*Second.*—If the Deed, Instrument, or Writing executed as aforesaid on unstamped, or insufficiently stamped paper be brought within thirty days from the date of execution, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and treble the amount of the

Penalty if executed on unstamped or insufficiently stamped paper and brought to be stamped within thirty days of execution.

deficient Duty; if brought after thirty days from the date of execution, but within three months from that date, or if brought within six months from the time of this Act coming into force, the requisite Stamp may be impressed on payment of so much as

Penalty if brought within three months of execution or six months of Act coming into force.

will make up the proper amount of Stamp Duty and five times the amount of the deficient Duty, or if not brought within the two periods last mentioned, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and twenty times the deficient Duty.

Penalty if not brought within the two periods last mentioned.

*Third.*—It shall be the duty of the Collector of the Stamp Revenue of the District, or other Officer as aforesaid, to determine whether, upon payment of the penalties mentioned in the last preceding Clause, the requisite Stamp shall be impressed on any Deed, Instrument, or Writing which shall have

Collector to determine whether, on payment of penalty, a Deed &c. executed on unstamped or insufficiently stamped paper shall be stamped.

been executed on unstamped or insufficiently Stamped paper, and the decision of the Collector shall be conclusive and final, except in cases in which he shall refuse to allow the Deed, Instrument, or Writing to be Stamped. The Board of Revenue or other general controlling Revenue Authority may, however, upon petition,

In what cases decision of Collector final.

Mitigation of penalty: such part of it as they may consider proper to be returned.

*Fourth.*—Sections 130 and 131 of Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter) are hereby repealed, and in lieu thereof it is enacted as follows:—In all cases under this Act in which a Collector may impress a Stamp on payment of the proper amount of Stamp Duty and a penalty, any Civil Court may receive in evidence any Deed, Instrument, or Writing which might be so impressed, on payment into Court of the proper amount of Stamp Duty, and the penalty as by this Section imposed.

In what cases Civil Court may receive Deed &c. on payment of Stamp Duty and penalty.

*Fifth.*—An entry of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of the Deed, Instrument, or Writing, and

Procedure on payment under preceding Clause.

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and shall be signed by a Judge of the Court. The Court shall at the end of every month make a return to the Collector of the Stamp Revenue of the District, of the monies (if any) which it has so received, distinguishing between the monies received by way of penalty and those received by way of Duty, stating the number and title of the suit and the name of the party from whom such monies were received, and the date, if any, and description of the document, for the purpose of identifying the same; and the Court shall pay over the said monies to such Collector or to such person as he may appoint to receive the same. And such Collector or other proper authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement hereinbefore mentioned, cause it to be Stamped thereon with a Stamp of the amount paid into Court on account of such Duty. All the provisions hereinbefore contained as to the mitigation or payment of penalties paid to the Collector shall be applicable to penalties paid into Court.

No unstamped or insufficiently stamped Deed &c. to be stamped except as aforesaid.

*Sixth.*—No Deed, Instrument, or Writing executed on unstamped or insufficiently Stamped paper shall be Stamped at any time after the execution thereof, except as aforesaid.

*Seventh.*—The cost of transmitting all Deeds, Instruments, and Writings required to be Stamped under this Section, and the cost of registering the same at the Post Office for transmission, shall, in all cases, be borne by the party applying to have such Deeds, Instruments, and Writings Stamped.

Cost of transmitting Deed &c. to be Stamped, by whom to be paid.

*Eighth.*—The Government shall not be responsible for any loss or damage which may occur in respect of any Deed, Instrument, or Writing entrusted to the Collectors of Stamp Revenue, and no person employed by the Government in the Stamp Department shall be responsible for any such loss or damage, unless that person shall wilfully, fraudulently, or by gross negligence, cause such loss or damage.

Government not responsible for loss or damage to Deed &c.

Provisions of this Section not to extend to Bills of Exchange &c. drawn in India.

But no part of this Section shall extend to Bills of Exchange or other forms of orders for money drawn within the British Territories in India, or to receipts for money.

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XIV. No larger sum shall be recoverable in any Court of Justice by reason of any Deed, Instrument, or Writing for which an optional Stamp is indicated to be proper by the said Schedule, than the largest sum for which, if specially stated in a Deed, Instrument, or Writing of the same denomination, the stamp actually used under the option so given, would be of sufficient value. And no such Deed, Instrument, or Writing shall be held by any Court of Justice to be valid in respect to any sum of money larger than that for which the Stamp on the said Deed, Instrument, or Writing would be sufficient.

XV. Every person receiving payment of any sum of money, the receipt for which under this Act requires a Stamp, shall, if required, give a receipt bearing the proper Stamp indicated by this Act, and shall bear the expense of furnishing the same, and in case of refusal shall be liable to a penalty not exceeding one hundred Rupees. The expense of providing the Stamp of all Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, and other Orders and Obligations for the payment of money made or drawn in the British Territories in India (not being Bonds or Instruments or Writings bearing the attestation of one or more witnesses), shall be borne by the person making or drawing the same.

XVI. Except within the local limits of the jurisdiction of the Courts established by Royal Charter, no Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B annexed to this Act, shall be filed, exhibited, or recorded in any Court of Justice or Office with respect to which Court or Office such Instrument or Writing is required by Schedule B to have a Stamp, or shall be received or furnished by any public Officer, unless such Instrument or Writing be upon a Stamp prescribed as aforesaid by the Governor-General of India in Council, and of a value not less than that indicated to be proper for it by the said Schedule B.

XVII. Every provision contained in the Schedules annexed to this Act shall be of the same force as if it were contained in the body of the Act.

XVIII. The Governor-General in Council may, by an order to be published in the Calcutta Gazette, direct that in any District such lower rates of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments, or Writings specified in the Schedules to this Act, or altogether exempt the same, &c.

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the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Provided that this Section shall not extend to Bills of Exchange or other Instruments classed as Bills of Exchange.

Proviso.

**XIX.** The local Executive Government may appoint Officers for the collection of the Stamp Revenue, and may prescribe the duties of such Officers and may assign districts to such Officers, and may license or cause to be licensed venders of Stamps, and may direct how and under what conditions Stamps may be supplied to such venders for sale.

Appointment of Officers for collection of Revenue.

Licensed Stamp venders.

**XX.** Every vender of Stamps shall at all times have his license, together with the Schedules annexed to this Act, in the vernacular language of the District, stuck up in a conspicuous situation in the place where he sells the Stamps, on pain of a fine not exceeding fifty Rupees.

Licenses and Schedules to be stuck up in Stamp vender's shop.

**XXI.** Every vender of Stamps shall write on some convenient part of each Stamp which he issues, except Stamps used for Receipts or for Bills of Exchange, Promissory Notes, Drafts, or other Orders for money, Banker's agreements for loans, or Bills of lading, the date of issue, the name of the person to whom it is issued, and his own ordinary signature, on pain of a fine not exceeding one hundred Rupees.

Endorsement by vender on Stamp when issued.

**XXII.** Any vender who shall knowingly write a false date or name on the back of any Stamp, shall be punished by a fine not exceeding five hundred Rupees, or imprisonment not exceeding three months, or both.

Penalty for false endorsement.

**XXIII.** Every vender of Stamps shall, without delay, deliver any Stamp which he has in his possession for sale on demand by any person tendering the value in any currency which the vender is duly authorized to receive in payment for Stamps, on pain of a fine not exceeding one hundred Rupees.

Delay by Stamp vender in issuing Stamps.

**XXIV.** Any vender who demands or accepts for any Stamp any consideration other than the value thereof in such currency as he is duly authorized to receive in payment for Stamps, shall be punished by a fine not exceeding one hundred Rupees.

Stamp vender accepting any consideration other than that authorized.

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**XXV.** Any vender who demands or accepts for any Stamp any consideration exceeding the value of such Stamp, shall be punished by imprisonment for a period not exceeding six months, or by a fine not exceeding ten times the value demanded or accepted, or by both, and it shall be in the discretion of the Court or Officer passing the sentence to direct the value of the excess to be refunded out of such fine to any person from whom such excessive consideration may have been accepted.

**XXVI.** Any vender or other person who, after any period which may have been appointed by the Governor-General in Council for the commencement of the use of new Stamps, sells any old Stamps, shall be punished by a fine not exceeding one hundred Rupees.

**XXVII.** If any vender refuses or omits to render any accounts required by the provisions of any bond he may have entered into, or to permit the Collector of the Stamp Revenue of the District or any Officer duly authorized by him to inspect his accounts, or to examine the store of Stamps in his possession, it shall be lawful for the said Collector to proceed against the said vender for the recovery of the value of the balance of Stamps standing against the vender in the books of the said Collector, or for the recovery of the balance of money standing against the said vender in the said books, in the same manner as Collectors of Land Revenue are authorized by law to proceed against persons owing Revenue or rent to Government.

**XXVIII.** Any vender who, upon the determination or resignation of his license, does not, within such reasonable time as shall have been prescribed by the Collector of the Stamp Revenue of the District, make over to some Officer duly authorized to receive them, accounts of all his transactions in relation to Stamps, kept according to the provisions of any bond he may have entered into, together with any Stamps remaining, or which ought to be remaining in his hands, and any balance of cash which may be due from him to Government on the above mentioned accounts, shall be liable to a fine not exceeding five hundred Rupees; provided always that no vender shall, by the payment of such fine, be exempt from any punishment provided by law for any embezzlement of which he may have been guilty, or from such proceeding as by Section XXVII of this Act the Collector

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Collector of the Stamp Revenue of the District is empowered to adopt for the recovery of the value of any Stamps or balance of cash remaining in the hands of or standing against such vender.

**XXIX.** Upon the death of any vender, his executors or administrators, or in case there be no executor or administrator any other person in possession of his effects, shall, upon demand being made by the Collector of Stamp Revenue or any Officer duly authorized by him, make over within a reasonable time to such Collector or Officer any Stamps which the deceased vender may have received and not have issued at the time of his death, and any accounts of the transactions of the deceased vender in relation to Stamps which may have been kept according to the provisions of any bond such vender may have entered into, of which Stamps and accounts such executor, administrator, or other person may have the possession, or be able to obtain the possession, on pain of a fine not exceeding five hundred Rupees.

**XXX.** In any of the cases specified in the preceding Sections the Collector of the Stamp Revenue of the District may call upon the surety or sureties of the vender, or any of them, to make good the value of the balance of Stamps standing against the vender in the books of the said Collector, or the balance of money standing against the vender in the books of the said Collector, and on his or their failure to do so, may proceed against all or any of them for the recovery of the value of the balance of Stamps or for the recovery of the balance of money as aforesaid, in the same manner as Collectors of Land Revenue are authorized by law to proceed against the sureties of persons owing Revenue or rent to Government.

**XXXI.** No person not being a licensed vender of Stamps duly appointed, shall sell any Stamp unless it has been in an authorized manner obtained for use and not for sale, under pain of a fine not exceeding one hundred Rupees; provided that nothing in this Section shall be held to apply to any adhesive Stamp.

**XXXII.** *First.*—If any stamped paper, parchment, vellum, or the like, after having been obtained in the regular manner, shall have become damaged, spoiled, or unfit for use, either by any accident happening to the same, or because of error in the drawing up or copying any Instrument or Writing thereupon, which being discovered before such

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such Instrument or Writing may be finally signed and executed, renders the same of no avail, or when by reason of the death or refusal of the party or parties whose signature may be necessary to effect the transaction intended by such Instrument or Writing it remains incomplete and of no avail, or when by the refusal of any office or trust that may be granted by an Instrument or Writing it has failed of the purpose intended, or in the case of Promissory Notes, Bills of Exchange, or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same are never brought to use, and in the case of Bills of Exchange if they shall not have been presented for acceptance; in all such cases it shall be competent to the Collector of the Stamp Revenue of the District duly appointed as above provided, upon delivery being made of the Stamped paper, parchment, vellum, or the like so damaged, spoiled, or rendered unfit for use, to cause similar Stamps or Stamps of equal value to be delivered as above provided to the owner of the article or articles so damaged, spoiled, or rendered unfit for use, or to his representative, upon payment of the value of the paper, parchment, vellum, or other material on which the new Stamp may be impressed. But the rule contained in this Section shall not extend to Bills of Exchange drawn in sets, of which any one of the set may have been delivered to the payee.

*Second.*—The owner of any Stamp which may be damaged, spoiled, or rendered unfit for use as aforesaid, shall prefer his application to the Collector of Stamp Revenue of the District in which he may have purchased it, and if the Collector be of opinion that the application ought to be complied with, he shall deliver or cause to be delivered, subject to the provisions of this Act, to the party or his representative, a Stamp similar to that which has been damaged, spoiled, or rendered unfit for use. Provided that the application be made within one year of the period when the Stamp may have become damaged, spoiled, or rendered unfit for use.

**XXXIII.** Any person who fraudulently counterfeits any Stamp, or who alters any Stamp with the intention that it shall pass for a Stamp of greater value, or makes or uses any die for either of the above purposes, or who fraudulently issues or exposes for sale any counterfeit Stamp or any Stamp altered as above described, or who fraudulently uses any counterfeit Stamp or any Stamp altered as aforesaid, shall be punished by imprisonment with or without hard labor for a term not exceeding four years or by transportation for a term not exceeding seven years.

**XXXIV.** No



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XXXIV. No Justice of the Peace or any Officer, before whom an affidavit Stamps on certain affidavits. not made for the immediate purpose of being filed, read, or used in any Court of Law may be taken, shall receive or attest such affidavit unless it be written on a Stamp of not less than the value prescribed in Schedule A annexed to this Act.

XXXV. From the time when this Act shall come into force, in all cases Conveyance to state truly the amount of the purchase money. of the sale of any lands, annuities, or other property, real or personal, moveable or immovable, or of any right, title, interest, or claim in any such property, when a Duty is imposed by this Act on the conveyance thereof, the full purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same, shall be truly expressed and set forth in words at length in the principal Deed, Instrument, or Writing whereby the property sold shall be conveyed to or vested in the purchaser or in any other person; and if the full purchase or consideration money shall not be fully and truly expressed and set forth in the manner above directed, the purchaser and seller shall each forfeit a sum not exceeding five hundred Rupees, and be charged with the payment of five times the amount of the excess of Duty which would have been payable for the said Deed, Instrument, or Writing in respect of the full purchase or consideration money, if the same had been duly expressed in the said Deed, Instrument, or Writing beyond the amount of Duty actually paid for the same.

XXXVI. If any person shall knowingly and wilfully insert or set forth in Penalty if person employed to prepare a Conveyance inserts a less sum than the true purchase money. such Deed, Instrument, or Writing, any less amount than the full and true purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same, he shall incur the penalties prescribed in the last preceding Section.

XXXVII. No person shall be proceeded against for any offence affecting Prosecution only to be by Collector of Stamp Revenue, &c. the Public Revenue under this Act except at the suit or prosecution of the Collector of the Stamp Revenue acting under the orders of the Board of Revenue, or other Authority charged by Government with the duty of carrying out the provisions of this Act, or other Public Officer, duly authorized by Government.

XXXVIII. Every offence punishable by this Act, Offences cognizable by Magistrate or Justice of the Peace. except the offences punishable by Section XXXIII, shall be tried by any Magistrate or Justice of the Peace.

XXXIX. The

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**XXXIX.** The offences punishable by Section XXXIII shall be tried by the Court having jurisdiction over the same, whether it be the Supreme Court of Judicature or the Session Judge or other Officer.

Offences cognizable by other tribunals.

**XL.** If any person sentenced to any fine under the provisions of this Act, shall not pay the fine to which he shall be sentenced, it shall be lawful for the Officer or Court who tried him, to issue his or their warrant to levy the amount by distress and sale of the goods and chattels of the party fined, or to sentence the offender to imprisonment until the payment of the fine, or the expiration of a term to be assigned, not exceeding three months, whichever shall first take place.

Imprisonment in case of non-payment of fine.

**XLI.** Throughout this Act and the Schedules annexed to it, the word "Stamp," except when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; the term "Bill of Exchange" shall include a Hoondee or any other Instrument of a like nature; and by the "value" of a Stamp is meant a sum indicated by words or figures duly impressed upon such piece of paper or other materials.

Interpretation.  
"Stamp."  
"Bill of Exchange."  
"Value."

**XLII.** This Act shall come into force from the 1st of October 1860.

Commencement of Act.

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ACT No. XXXVI of 1860.

SCHEDULE A.

*Specifying Deeds, Instruments, and Writings which require Stamps, and indicating the proper Stamps for those Deeds, Instruments, and Writings.*

	PROPER STAMPS.
<p>1. Agreement, Ikrar, or any Minute or Memorandum of an Agreement; such Agreement, Minute, or Memorandum not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the party—</p>	
<p>If relating to matters capable of valuation, and with the value stated ...</p>	<p>{ The same Stamp as for a Bond for the payment of the amount of the value stated.</p>
<p>If for an annual or any periodical payment</p>	<p>{ The same Stamp as for a Bond for the amount of ten years' payment, or of the total sum secured if less.</p>
<p>If for the performance of any legal act, or for a purpose not restricted to, nor specifying any amount ...</p>	<p>{ An optional Stamp—See Section XIV of the Act.</p>
<p>Agreements for loans by Bankers made for short periods upon the deposit of Notes or other Securities of the Government of India, with or without a deposit of the Acceptance or Promissory Note of the borrower, provided that no such agreement is drawn in the form of a Bond or of a Bill of Exchange or Promissory Note or in any such way as would render it a negotiable Instrument passing by endorsement, for whatever amount, in case such loan shall not exceed one month, the uniform Stamp of ...</p>	<p>2 Rupees.</p>
<p>And in case such loan is for a period exceeding one month or not exceeding three months</p>	<p>4 Rupees.</p>

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	PROPER STAMPS.
<b>EXEMPTIONS.</b>	
Agreement for the hire of any Laborer, Artificer, Manufacturer, or menial Servant.	
Agreement, Memorandum, or Letter made for or relating to the sale of any Goods, Wares, or Merchandize.	
2. Affidavits and solemn declarations not made for the immediate purpose of being filed, read, or used in any Court of Law, per sheet...	1 Rupee.
3. Assignments, if not of the nature specified under the heads of Conveyances and Settlements, nor specially exempted—	
In cases where the Assignment is of any interest secured by an original Deed or Instrument on a Stamp of a value less than eight Rupees ...	The same Stamp as the original Deed.
In other cases ...	8 Rupees.
<b>EXEMPTION.</b>	
All transfers by mere endorsement of Bills of Exchange, Promissory Notes, and other negotiable Instruments; and of Bills of Lading; and transfers by Assignment of Policies of Assurance.	
4. Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, Hoondees, and other orders and obligations for the payment of money, not being Bonds, or Instruments, or Writings, bearing the attestation of one or more witnesses—	
If payable to the bearer or to order on demand, and bearing the date on which the draft or order is made, except Bank Notes payable to bearer on demand ...	Rs. As 0 1
If the sum payable does not exceed 50 Rupees ...	0 1/4

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If payable at any period not exceeding one year after date or sight, then—	PROPER STAMPS.			
	Inland and Foreign if drawn singly.		Foreign if drawn in sets of three, each to be Stamped.	
	Rs.	As.	Rs.	As.
Bills not exceeding 100 Rupees.	0	1	0	1
Above 100 and ditto 250 "	0	3	0	1
" 250 ditto 500 "	0	6	0	2
" 500 ditto 1,000 "	0	12	0	4
" 1,000 ditto 2,500 "	1	8	0	8
" 2,500 ditto 5,000 "	3	0	1	0
" 5,000 ditto 10,000 "	6	0	2	0
" 10,000 ditto 20,000 "	12	0	4	0
" 20,000 ditto 30,000 "	18	0	6	0
" 30,000 and upwards,	24	0	8	0

5. Any of the Instruments described in No. 4, payable at a period exceeding one year after date or sight, ...

The same Stamp as for Bonds for the payment of the same amount.

6. Bills of Lading of or for any Goods, Merchandise, or effects to be exported ...

Rs. As. 0 4 for each part of every set.

7. Bills of Sale—See Conveyance and Mortgage.

8. All Bonds or other obligations for the payment of any definite or certain sum of money not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule.

If for any sum not exceeding	50 Rs.
Above 50 Rs. and not exceeding	100 "
" 100 " ditto	200 "
" 200 " ditto	300 "
" 300 " ditto	500 "
" 500 " ditto	700 "
" 700 " ditto	1,000 "
" 1,000 " ditto	2,000 "
" 2,000 " ditto	3,000 "

Rupees.	Annas.
0	4
0	8
1	0
2	0
4	0
5	0
6	0
10	0
15	0

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		<b>PROPER STAMPS,</b>	
		<i>Rupees.</i>	<i>Annas.</i>
Above 3,000 Rs. and not exceeding 5,000 Rs.		25	0
„ 5,000 „ ditto 10,000 „		35	0
„ 10,000 „ ditto 20,000 „		60	0
„ 20,000 „ ditto 40,000 „		100	0
„ 40,000 „ ditto 60,000 „		125	0
„ 60,000 „ ditto 80,000 „		150	0
„ 80,000 „ ditto 1,00,000 „		200	0
And for every further part of a lac, ...		100 Rupees.	
And for every further full lac, ...		200 „	
9. Bonds or other obligations, concerning respondentia and bottomry, ...		The same Stamp as for a common money Bond for the like amount.	
10. Bonds or other obligations given as security for the transfer of Government Securities or Stock of any public Company or for the delivery or accounting for any matter or thing capable of being valued, ...		The same Stamp as for a Bond for the payment of the amount engaged to be paid or accounted for, or of the value of the thing to be delivered or transferred.	
11. Bonds or other obligations for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond whether for a fixed or for an indefinite period, ...		The same Stamp as for a Bond for the payment of a sum equal to ten times the yearly payment, or of the total sum secured, if less.	
12. Bonds or other obligations when the amount of the money to be secured is not specified, ...		An optional Stamp—See Section XIV of the Act.	
When the amount is limited to a certain sum, ...		The same Stamp as for a Bond for the payment of such limited sum.	
13. Bonds or other obligations for the due execution of an office or work, taken by individuals, and all other Bonds not otherwise specially provided for, ...		An optional Stamp—See Section XIV of the Act.	
14. Bonds or other obligations taken as collateral security with some Deed or Instrument executed on the Stamp prescribed for Conveyances or Money Bonds, or as security for the performance of any other contract, covenant, or agreement not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand, ...		The same Stamp as the Deed, Instrument, Contract, Covenant, or Agreement; if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.	

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	PROPER STAMPS.
<p>15. Security Bonds or other obligations which may be taken by or by order of any Court, Collector, or other Judicial or Revenue Authority, also Razeenamahs, Sooluhnamahs, and Rufanamahs, filed in any suit pending in a Court of Justice, ...</p>	<p>To be charged as specified and prescribed in Schedule B.</p>
<p>16. Charter-parties, or any agreement or contract for the Charter of any Sea-going Ship or Vessel, or any memorandum, letter, or other writing between the Captain, Master, or Owner of any such Ship or Vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such Ship or Vessel, ...</p>	<p>2 Rupees.</p>
<p>17. Composition Deeds or other Instruments of composition between a debtor or debtors and his, her, or their creditors, ...</p>	<p>8 Rupees.</p>
<p>18. Contracts and Deeds, if not otherwise specially provided for, ...</p>	<p>As agreements.</p>
<p>19. Conveyances or Deeds or Instruments of any kind or description whatsoever, executed for the sale or transfer, for a consideration, of any lands, tenements, rents, annuities, or other property, real or personal, moveable or immovable, or of any right, title, or claim to or upon, or interest in, any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person by his, her, or other directions.</p>	

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		<b>PROPER STAMPS.</b>	
		<i>Rs.</i>	<i>As.</i>
When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees. ...		1	0
Above	100 Rs. and not exceeding 200 Rs.	2	0
"	200 " ditto 400 "	4	0
"	400 " ditto 800 "	8	0
"	800 " ditto 1,200 "	12	0
"	1,200 " ditto 2,000 "	20	0
"	2,000 " ditto 3,000 "	30	0
"	3,000 " ditto 4,000 "	40	0
"	4,000 " ditto 5,000 "	50	0
"	5,000 " ditto 7,500 "	75	0
"	7,500 " ditto 10,000 "	100	0
"	10,000 " ditto 20,000 "	150	0
"	20,000 " ditto 40,000 "	200	0
"	40,000 " ditto 60,000 "	300	0
"	60,000 " ditto 80,000 "	400	0
"	80,000 " ditto 100,000 "	500	0
	And for every further, 50,000 "	200	0
	Or part thereof, ...	100	0
Conveyances when the consideration is annuity, ...		The same Stamp as for a Conveyance when the purchase money is equal to ten times the annuity.	
Conveyances of any kind whatever not otherwise charged, if the value of the property conveyed or of the consideration for the Conveyance be stated or appear on the face of the Conveyance, ...		The same Duty as would be charged if a consideration in money equal to such value were expressed in the Conveyance as the consideration thereof.	
If no value appear on the face of the Conveyance, ...		Fifty Rupees.	
<b>NOTE.</b> —When of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed. In all cases, however, where there are more Deeds than one, every other Deed than the principal requires the same Stamp			



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PROPER STAMPS.

as the principal Deed, if of value not exceeding eight Rupees (which shall be the maximum Stamp for collateral Deeds), and all such collateral Deeds shall specify by their contents which other is the principal Deed by which the Conveyance has been effected, certifying that it is executed on the proper Stamp.

Transfers of the shares of any Banking Corporation or any Joint Stock Company, by endorsement or otherwise, when the full nominal value of the share so transferred does not exceed 100 Rupees, per share, ...

<i>Rupees.</i>	<i>Annas.</i>
0	4

When the value exceeds 100 Rs. and not 200 Rs. ...

0	8
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When the value exceeds 200 Rs. and not 300 Rs. ...

0	12
---	----

When the value exceeds 300 Rs. and not 400 Rs. ...

1	0
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and for every additional value of 100 Rs. a further Duty of 4 annas, and for the transfer of every quarter or half of any such share, a corresponding rate of Duty.

EXEMPTION.

All transfers of subscription to any of the Government Loans, or other Government Securities.

20. CO-PARTNERSHIP.—Deeds or other Instruments of—

8	0
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21. COPIES.—Copy or Extract of any Deed or Instrument attested to be a true copy or extract and furnished for the purpose of being given in evidence for the recovery of any sum of money, property, interest, or right secured thereby

The same Duty as prescribed for the original Deed by this Act.

		PROPER STAMPS.	
		Rupies.	Annas.
22.	Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the agreement, contract, bond, deed, or other instrument, per sheet ...	0	8
23.	Copy or Extract of any Deed, Instrument, Schedule, Receipt, or other matter annexed to any agreement, contract, bond, deed, or other instrument, per sheet ...	0	8
24.	Copies authenticated of any records, letters, accounts, statements, reports, or other writings, furnished to individuals from any of the Public Offices of Government, per sheet...	0	8
	For copies of Revenue and Judicial Papers to be given from the Courts of Justice, Revenue Kutcheries, &c. ...	See Schedule (B).	
<p>• EXEMPTION.</p> <p>Copies of papers which Public Officers are directed by any law or general regulation to make, require, or furnish, for which Stamps are not specially required by this Schedule...</p>			
25.	Deeds of gift and dower whether to take effect on the instant, or at a future period, determinate or indeterminate ...	The same Stamp as for Conveyances.	
26.	Deeds of any kind not otherwise particularized in this Schedule ...	As Agreements.	
27.	EXCHANGES.—Any Deed or Instrument whereby any real property shall be conveyed or surrendered in exchange for other property— ...	The same Stamp as for Conveyances.	
28.	Engagements to cultivate, produce, provide, or derive any article of commerce in consideration of advance made ...	Shall be charged on the amount advanced at the rate of Bonds.	

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29. LEASES.—Any lease made in perpetuity, or for a term of years, or period determinable within one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent ...

The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration.

30. Any lease of lands, houses, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

When the lease is for a period not exceeding one year.

When the lease is for a period exceeding one year.

Where the rent calculated for a whole year shall not exceed 24 Rupees ...

Exceeding 24 Rupees but not exceeding 50 Rs.

Rent	Stamp
50	100
100	250
250	500
500	1,000
1,000	2,000
2,000	4,000
4,000	6,000
6,000	10,000
10,000	25,000
25,000	50,000

Rs.	As.	Rs.	As.
0	4	0	8
0	8	0	12
0	12	1	0
1	0	2	0
2	0	4	0
4	0	8	0
8	0	16	0
16	0	32	0
24	0	48	0
40	0	80	0
100	0	200	0
200	0	400	0
100	0	200	0

and for every additional 25,000 or part thereof,

31. Any lease of lands, houses, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium ...

The same Stamp as for a lease for a period exceeding one year.

32. Any Lease of lands, houses, or other real property, stipulating for a rent, and granted in consideration of a fine or premium ...

A Stamp of value equal to the joint values of the Stamps for a Conveyance in consideration of the fine, and a lease for the rent.

33. The counterpart of any Lease, or a Kuboolent or the like ...

The same Stamp as for the lease.

EXEMPTIONS.

All Leases, Pottahs, and Kuboolents executed and exchanged with ryots and other actual

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cultivators of the soil, provided that no fine or premium be paid and no Security Bonds executed as part of the same transactions.

(For Madras and Bombay.)

Every Lease and its counterpart (Pottah and Kubooleut) or other engagement contracted between landlord and tenant, relative to lands subject to the payment of Revenue to Government.

34. Letters, or powers of Attorney, Mooktarnamahs, &c., not being of the kinds provided for in Schedule B—

For the performance of any special act or acts, or of the acts connected with any one particular suit, case, or transaction ...

General, that is not restricted as above

Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an avalorem Stamp under this Act, ...

If given as such collateral security as above mentioned. ...

NOTE.—For Wakalutnamahs, Mooktarnamahs, and other powers required to be filed for the conduct of suits, regular or summary, or proceedings of any kind pending before the Courts of Judicature or before the Revenue Authorities ...

35. Letters of license from creditors to debtors ...

Rupees. Annas.

0 8

4 0

The same Stamp as for a Bond.

Five Rupees.

See Schedule (B)

Rupees. Annas.

8 0

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36. MORTGAGES.—Any deed of mortgage or of conditional sale with or without possession given, of or for any lands, estates, or property, real or personal, intended as a security for money due or to be lent thereupon; also any deed or contract accompanied with a deposit of title deeds to any property, where the same may be made as security for payment of money due or lent at the time, ...

The same Stamp as for a Bond for the payment of the amount due or lent.

37. Re-conveyance of mortgaged property,

The Stamp as for Assignments.

38. Release of an equity of redemption,

The same Stamp as for Conveyances.

39. Deeds of mortgage, or the like, given as security for the transfer of Government Securities or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued, ...

The same Stamp as for a Bond for the payment of the total amount assured, or for the *bonâ fide* value.

\* 40. Deeds of mortgage given for the security of annuities for an indefinite period, such as life annuities, ...

The same Stamp as for ten times the annual payment.

Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum, ...

The same Stamp as for deeds of mortgage of such limited sum.

Where the total amount secured by the mortgage is unlimited, ...

An optional Stamp—See Section XIV of the Act.

Where a Bond may have been already taken for the amount secured, or where from any other cause the mortgage shall act merely as a collateral security to some other transaction in which an Instrument requiring a Stamp has been executed, ...

The same Stamp as for the Bond or other Instrument, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.

Where there are more Deeds than one required to execute the mortgage in the manner desired by the parties, then for every other Deed than the principal Deed, provided the original Deed has been duly stamped, ...

The same Stamp as for the principal Deed, if of value not exceeding eight Rupees; in other cases a Stamp of eight Rupees.

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PROPER STAMPS.

41 Mortgages, assignments, or acknowledgments granted for loans or advances made on the deposit of Government Securities, bullion, plate, jewels, or other goods, ...

The same Stamp as for Promissory Notes,

42. Partitions by private agreement, or made by Public Officers, of estates or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, for every such sharer's copy of the deed of partition—

When the sharer's portion does not exceed one hundred Rupees in value, ...

Rupees.	Annas.
0	8

Exceeding 100 Rs., and not exceeding

200	ditto	400	Rs.
400	ditto	600	Rs.
600	ditto	800	Rs.
800	ditto	1,000	Rs.

1	0
2	0
4	0
6	0
8	0

And for every additional four hundred Rupees, or part thereof, ...

2	0
---	---

When the subject of the partition, consisting either wholly or in part of other property than money, any money, not being part of such subject, is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject, ...

A Stamp of value equal to the joint values of the Stamp which would have been required had the subject of partition been actually divided with the just proportion, and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid, for the purpose of compensating the difference therefrom.

43. Policy of Assurance or Insurance, or other Instrument, by whatever name the same shall be called, whereby an Insurance shall be made upon any life or lives, or upon any event depending upon any life or lives—

For every sum of one thousand Rupees and also for each and every fractional part of one thousand Rupees, ...

Rupees.	Annas.
0	8

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PROPER STAMPS.

44. Policy of Insurance of any ship vessel, sloop, lighter, boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured, if the whole sum insured shall not exceed one thousand Rupees, ...

0 8

If the sum insured exceed one thousand Rupees, then for every one thousand Rupees, and also for any fractional part of one thousand Rupees whereof the same shall consist, ...

Rupees Annas.

0 8

Where the premium shall exceed two per cent on the sum insured, if the whole sum shall not exceed one thousand Rupees, ...

1 0

If the sum insured exceeds one thousand Rupees, then for every one thousand Rupees and also for any fractional part of one thousand Rupees whereof the same shall consist, ...

1 0

Promissory Notes, ...

See Bills of Exchange.

45. Promissory Notes for the payment of any sum by instalments, that is Kistbundies, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain, ...

The same Stamp as for a Bond for the payment of the whole amount.

46. Protest of any Bill of Exchange or Promissory Note for any sum of money, or any Notarial Act not otherwise charged or exempted in this Schedule, ...

Rupees Annas.

2 0

47. Receipts or discharges given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, or acquitted, amounts to ten Rupees and does not exceed fifty Rupees,

0 1/2

If the sum exceeds fifty Rupees,

0 1

PROPER STAMPS.

EXEMPTIONS.

*(For the Presidency of Bengal.)*

Receipts or discharges with respect to the rent of land paying Revenue to Government, granted to any ryot or other actual cultivator for the rent of land tilled by him.

*(For the Presidencies of Madras and Bombay.)*

Receipts or discharges with respect to the rent of land paying Revenue to Government granted to any tenant for the rent paid by him.

GENERAL EXEMPTIONS.

Receipts or discharges written upon Promissory Notes, Bills of Exchange, Drafts, or Orders for the payment of money, duly stamped.

Letters sent by the post acknowledging the arrival of any Promissory Notes, Bills of Exchange, or other securities for money.

Receipts or discharges written upon or contained in any Mortgage Deed, or other security or any Deed of Conveyance, Settlement, Personal Bond, or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed or the receipt of any principal money, interest, or annuity thereby charged.

Receipts given for money deposited in any Bank, or in the hands of any Banker, to be accounted for, whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be account-



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PROPER STAMPS.

ed for. Provided always that this exemption shall not extend to receipts or acknowledgments for sums paid or deposited for or upon letters of allotment of shares, in respect of calls upon any scrip or shares of or in any Joint Stock or other Company, or proposed or intended Company, which such last mentioned receipts or acknowledgments, by whomsoever given, shall be liable to the Duty charged upon receipts.

48. Schedules referred to in any Agreement, Lease, Bond, Deed, or other Instrument, for every thousand words, or part thereof, ...

<i>Rupees.</i>	<i>Annas.</i>
10	0

49. Settlements, Marriage Settlements, &c., namely any Deed or Instrument whereby any sum or sums of money, or any Government Securities or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person or persons, in any manner whatsoever. ...

The same Stamp as for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate, an optional Stamp—See Section XIV of the Act.

EXEMPTION.

Wills, Testaments, and the like, together with Deeds merely declaratory of trust or appointment or apportionment or otherwise, in execution of powers or pursuant to any previous Settlement, Deed, or Will.

GENERAL EXEMPTION AND RULE.

Deeds, Instruments, and Writings of any kind, in which Government, or any Board, Commission, Court, or Public Officer may, in a public capacity, be a party, do not require Stamps.

NOTE.—The foregoing exemption does not extend to Deeds, Instruments, and Writings executed to or by the Court of Wards, Local

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PROPER STAMPS.

Agents, or Officers acting under their authority, or to or by any Administrator General; neither does it extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees or orders of Court, in which cases the purchasers shall be required to pay, along with the purchase money, the price of the requisite Stamp, or else provide such Stamp, and shall receive from the Officer conducting the sale a Deed of Sale (Byenamahs) executed on the proper Stamp.

Any Deed, Instrument, or Writing required by the foregoing Schedule to be Stamped, may be written on one or more Stamps if the value of the Stamps used amount to the value required by the Schedule.

Deeds for Securing gifts or dispositions made by previous Settlements, Deeds, or Wills.

SCHEDULE B.

*Referred to in Section XVI of the Act, containing the Specification of Duties chargeable on Law Papers.*

1. Bail or Security Bonds (Hazir or Fial Zamin) whether of specified amount or with a penalty of a specific sum of money or of indefinite amount, when furnished and filed under special order of a Civil Court or of any Revenue Officer exercising Judicial powers, ...

To be charged as Petitions.

When executed between individuals not by order of Court, ...

To be charged as Bonds—See Schedule (A).

2. Copies of Judgments and Decrees when passed in any Court below the Sudder Dewanny Adwalut, in all regular suits of which the value of the claim amounts to fifty Rupees—per sheet, ...

Rupees. Annas.

1 0

ACT No. XXXVI OF 1860.

	PROPER STAMPS.
When passed in the Sudder Dewanny Adawlut in any regular suit—per sheet, ...	4 0
3. Copies of Revenue and Judicial Proceedings or Orders, or Copies of Accounts, Statements, Reports, or the like filed on record and taken out for use or reference, or when left on proceedings in place of originals withdrawn—per sheet, ...	
And each sheet shall be of a size not exceeding that fixed for copy paper (No. 3 of the Stamp Office) and shall be written on one side thereof only.	
4. Mooktarnamahs, Wakalutnamahs, and other powers, filed or presented for the conduct of suits, regular or summary, of cases or proceedings of any kind pending before any Civil or Criminal Court or before the Revenue Authorities—	
When presented to any Sudder Court, ...	
When presented to any Board of Revenue or Board or Commissioner of Customs, Salt, and Opium, ...	
When presented to any Court, Civil or Criminal, other than the Sudder Court, or to any Collector or other Revenue Officer, ...	
<b>EXEMPTIONS.</b>	
Mookhtarnamahs executed by Officers or Soldiers of the Army.	
Counsel admitted in any case by any Criminal Court to appear on behalf of a prisoner without a written Mookhtarnamah.	

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	PROPER STAMPS.	
	<i>Rupees</i>	<i>Annas.</i>
5. Petitions of appeal not being from an order rejecting a plaint or from a decree or order having by any law the force of a decree; petitions or applications presented to any Civil Court, in relation to any matter cognizable by such Court, shall be written upon Stamp paper of the following value, namely,		
When presented to the Sudder Court, ...	2	0
When presented to any Court below the Sudder Court, ...	0	8
<b>SPECIAL RULE FOR BENGAL.</b>		
Petitions or applications not falling within any of the Exemptions of this Schedule, presented to the Nizamut Adawlut or to the Board of Revenue or Customs, Salt, and Opium, ...	2	0
Petitions or applications not falling within any of the Exemptions of this Schedule, presented to any other Criminal Court or to any other Revenue Office, ...	0	8
<b>GENERAL EXEMPTIONS.</b>		
Petitions or applications presented to any Moonsiff's Court in relation to any suit or case of an amount or value less than fifty Rupees, or to a Collector or Deputy Collector in relation to any suit or case of the same amount or value tried under Act X of 1859.		
Applications for the summons of a witness or other person to attend either to give evidence or to produce a document or in respect of the production or filing of any exhibit.		
Petitions of appeal presented to Magistrates against Chowkeedary assessment.		

PROPER STAMPS.

Communications made to Magistrates in regard to Police matters not intended for record.

Petitions to Collectors or Officers making settlements relating to matters connected with the assessment of lands, the ascertainment of rights, or to other matters affecting the settlement of the Government revenue on lands, if presented pending the formation of such settlements.

Petitions to Boards or Commissioners of Revenue relating to the same.

All Petitions, applications, charges, and informations respecting crimes and offences.

Petitions from prisoners, convicts, persons under examination or otherwise in duress, or under restraint of the Court or its Officers.

EXEMPTIONS FOR THE PRESIDENCIES OF  
MADRAS AND BOMBAY.

No petition or application to the Revenue Authorities need be presented on Stamp Paper, except as prescribed in the Special Rule given at the close of this Schedule with respect to cases that fall within Regulation VI. 1828 of the Bombay Code.

6. PLAINT.—Petition of, in suits and appeals not otherwise provided for, instituted in any Civil Court not within the local limits of the jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money or to obtain possession of any interest, matter, or thing—

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		PROPER STAMPS.	
		Rupees.	Annas.
SCALE FOR PLAINTS.			
If the amount or value of the property claimed shall not exceed	16 Rs.	1	0
Above 16 Rupees and not exceeding	32 "	2	0
Do.	32 " " 64 "	4	0
Do.	64 " " 150 "	8	0
Do.	150 " " 300 "	16	0
Do.	300 " " 800 "	32	0
Do.	800 " " 1,600 "	50	0
Do.	1,600 " " 3,000 "	100	0
Do.	3,000 " " 5,000 "	150	0
Do.	5,000 " " 10,000 "	250	0
Do.	10,000 " " 15,000 "	350	0
Do.	15,000 " " 25,000 "	500	0
Do.	25,000 " " 50,000 "	700	0
Do.	50,000 " " 1,00,000 "	1,000	0
Do.	1,00,000	2,000	0

Petitions of plaint in suits instituted in the Courts of Collectors under Act X of 1859, shall be subject to the foregoing Duties.

NOTE.—(a). Within the Presidency of Bengal in suits for lands paying revenue to Government, if forming one entire Mehaul, or a specific portion thereof with a defined jumma, the value shall be assumed in the Ceded and Conquered Provinces, including Cuttack, at the amount of the annual jumma payable to Government on account of the Mehaul or portion thereof as aforesaid; and where the land has been assessed in perpetuity, at three times the amount of the annual jumma.

(b). Within the Presidency of Madras, in suits for land paying Revenue to Government, the value of the property shall be assumed at the amount of the annual aggregate pro-

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duce of the land computed as payable by the dependent Talookdars, Under-Farmers, and Ryots on account of the year in which the suit may be preferred.

(c). Within the Presidency of Bombay, in suits for land paying Revenue to Government, the value of the property sued for shall be calculated at the amount of the annual assessment.

(d). In suits for Lakhiraj, Enam, or rent-free land, the value shall be calculated at eighteen times the aggregate annual rent payable by the ryots or other under-tenants of the land.

(e). In suits instituted for houses, gardens, and other things of value, real or personal, not of the descriptions above specified; as well as for any interest in Malgdozaree land or for any other right or thing not capable of valuation under the above rules, the amount shall be computed according to the estimated selling price, or when no such estimate can be made, at the sum at which the plaintiff shall estimate the value of his suit; and suits for damages or compensation for injury sustained and the like shall be valued at the amount claimed by plaintiff.

(f). If an appeal or plaint, which shall have been rejected by the Lower Court on any of the grounds mentioned in Act VIII of 1859, shall be ordered to be received, or if a suit shall be remanded in appeal for a second decision by the Lower Court, the Appellate Court shall grant to the Appellant a certificate authorizing him to receive back from the Collector the full amount of Stamp Duty paid on the petition of appeal.

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7. Razeenamahs, Rufanamahs, Soolunamahs,  
or the like, that is to say:—

Any written application whereby, or according whereunto, a suit pending in a Civil Court shall be adjusted, or be capable of adjustment, without an award of the presiding Judge or other Officer,

To be charged as in Petitions.

SPECIAL RULE FOR THE PRESIDENCY OF  
BOMBAY.

Suits cognizable before Collectors under the operation of Chapter VIII. Regulation XVII. 1827, as modified by Act XVI of 1838, shall be subject to the same rules in regard to Stamps, as are in force as above for the Courts of Civil Judicature.

GENERAL RULE.—If the subject matter of any plaint, written statement, or petition, cannot be conveniently comprised within one Stamp Paper of the value above prescribed, one or more additional pieces of paper may be used of the value required for Petitions.



(Circular.)

No. 1706 OF 1861.

*Bombay, Sudder Adawlut,  
2nd July 1861.*

To

THE JUDGES AND COLLECTORS.

GENTLEMEN,

I have the honour, by direction of the Judges of the Sudder Adawlut, to append, for your information, an abstract of the opinions expressed, and instructions given, by them on several points connected with the Stamp Act XXXVI. of 1860.

2. It will be noticed that these opinions have in most cases been expressed in reply to references made by individual Zillah Judges, but that amongst them are a few judicial rulings by the Court. You will be careful to discriminate between the two, as enjoined in the Court's Circular, No. 1708, of the 27th September last, which is printed on the next page for easy reference.

I have the honour to be,

Gentlemen,

Your most obedient Servant,

A. F. BELLASIS,  
Acting Registrar.

(Circular.)

No. 1708 OF 1860.

*Bombay, Sudder Dewanee Adawlut,  
27th September 1860.*

To

THE JUDGES,

GENTLEMEN,

With reference to the Circular, No. 170, dated 31st January 1860, and all subsequent circulars and orders issued by the Court respecting the administration of the new Law of Civil Procedure, and to any replies which the Court may have given to individual references on the same subject, I am directed by the Judges to impress on you the necessity of your carefully distinguishing between those portions of the Court's letters which prescribe rules for the practice and proceedings of the subordinate Civil Courts, such as the Sudder Court is empowered to issue under Section 381 of Act VIII. of 1859, and those which may possibly bear the appearance of interpretations of the Law; and, with respect to the latter, to intimate the desire of the Court that you will not consider any expression of their opinion, other than their ruling on matters judicially decided by them, as binding on your judgment in your application of the Law.

I am also directed to request that you will communicate these instructions to any of the Judicial Officers in your Zillah to whom the Circular orders, &c. referred to may have been communicated.

I have the honour to be, &c.,

(Signed) J. MORRIS,  
1st Assistant Registrar.

ON a reference made, the Judges held, that under Section I. Act XXXVI. of 1860, the provisions of Regulations XVIII of 1827 apply as well to deeds, instruments, or writings made or executed on unstamped or insufficiently stamped paper, before the said Act came into force as to those executed on paper sufficiently stamped.—26th November 1860, No. 2096.

**Sect. 1.**

Having had under their consideration the questions, whether Schedule A 21, includes a copy furnished by a Registrar of Deeds ? and whether a person, who ought to have obtained a copy under Schedule A 21, may put in evidence a copy obtained by a stranger under A 22 ? the Judges held, with reference to the first question, that copies made from writings contained in a Register of Deeds, can only be regarded as copies of copies, and that there is no provision for the levy of stamp duty on these; and with regard to the second question, the Judges declared that Section XII. of the Stamp Act precludes the receipt of a copy furnished under Schedule A 22, as evidence in any Civil Procedure for the purposes indicated in Schedule A 21 as making a higher stamp duty requisite.—18th March 1861, No 611.

**Sect 12  
and Schedule A 21  
and 22.**

The Judges concurred in the opinion, that the holder of a document dated prior to the 1st October 1860 (the date from which Act XXXVI. of 1860 came into operation), can claim to have it stamped under Regulation XVIII. of 1827, though the conditions of Act XXXVI. of 1860, Sect. XIII., Clauses 1 and 6, be not satisfied.—18th March 1861, No. 611.

**Sect. 13,  
Clauses 1  
and 6.**

In reply to a reference the Judges held, that the determination of a Collector, who had refused, under Clause 3, Sect. XIII. of Act XXXVI. of 1860, to stamp a document, was not binding upon a Civil Court, if the holder of that document afterwards seek to file it under Clause 4 of the Section and Act quoted; and they also remarked that this Clause (4) leaves the receipt of a document, for the stamping of which a fine is offered, to the discretion of the Civil Court.—18th March 1861, No. 611.

**Sect 13,  
Clauses 3  
and 4**

The questions having been raised whether documents dated prior to the 1st of October 1860 could be admitted to be stamped at the reduced fines laid down in Clause 2 of Section XIII. of Act XXXVI of 1860, and whether such documents could be considered cases under that enactment within the meaning of Section XIII., Clause 4 : the Judges replied, that the case of documents to which Regulation XVIII. of 1827 still applies under the reservation stated in Section I. of the Stamp Act, is not one of the "cases under this Act" which are provided for by Clause 4 of its 13th Section; that no part of that Section is applicable to such documents, and that they can consequently be received in evidence only when stamped according to the regulation still in force concerning them, under which the Civil Courts cannot receive any such fine as that referred to.—18th March 1861, No. 611.

**Sect 13,  
Clause 4**

On a question being submitted whether "the production of the deed, &c.," in Section XIII. Clause 5, means production by an officer

**Sect 13,  
Clause 5**

of the Court, or by the owner, it was replied that the words "the production of the deed, &c.," mean its production not by the Court, but by the owner; that these words would apply only to deeds given back to the person who produced them, should he afterwards wish to have them stamped, and that those kept among the Court's records, after being produced, would not be stamped at all.—18th March 1861, No. 611.

**Sect. 16.**

The Court ruled that Section XVI. of Act XXXVI. of 1860 does not affect the special privileges given to Paupers by Act VIII. of 1859 (Sections 308 and 369), and ordered an appeal against a Judge's decision *in formâ pauperis* to be filed, though the accompanying copies of the judgments and decrees of the lower Court were on unstamped paper.—20th February 1861.

*In re* Buchraj Ramchunder (Sholapoor).

**Sect. 42.**

On an application being presented, the Sudder Dewanee Adawlut ruled, that as the new Stamp Act (No. XXXVI. of 1860) did not come into operation until the 2nd October 1860, a security bond, which was executed on the 1st idem on a stamp of the value required by the Law then in force was legal, and should be received.—10th October 1860.

*In re* Luckmichund Dewchund (Poona).

**Schedule A  
1 and B 6 (c  
d and e).**

On a proposition that as no rule is laid down in Schedule B for the computation of the value of claims for Wurshasuns and Annuities, they may either be considered as included in the "other things of value" of Schedule B 6, or estimated according to the analogy of Schedule A 1, at ten years' purchase: the Judges replied, that as suits for Wurshasuns are for rights "not capable of valuation" under either of the rules in notes *c* and *d* appended to Schedule B 6, and not such as have any "estimated selling price," the valuation of each such suit must be left to the plaintiff, as provided in note *e* of the same Schedule; the Court taking care, in accordance with Section XXXI. of Act VIII. of 1859, that he does not undervalue his claim.

It was added that the Judges regarded the rule laid down in Schedule A 1 of the Stamp Act for the valuation of an annual or periodical payment as a good guide to assist a Court in carrying out the above view, but would not interfere with its discretion, by insisting on the observance of this principle of valuation in other cases than those in which it is prescribed.—18th March 1861, No. 611.

**Schedule A  
24, and B  
3.**

It was held by the Judges that if a party or witness who may have produced a document of one of the kinds enumerated in Schedule B 3, applies for its return under Sections 135 or 136 of Act VIII. of 1859, the provisions of the said Schedule B 3 will apply to the copy to be substituted in the record of the suit, and that Schedule A 24 does not relate to such documents.—18th March 1861, No. 611.

**Schedule  
A 48.**

On a question whether, under the last paragraph but one of Schedule A, and the mention made of "judicial papers" in Schedule A 24, copies of judgments and decrees passed in the Court of Sudder Dewanee Adawlut, the proper stamp for each sheet of which

is prescribed in Schedule B 2, can be given on other than single stamped paper of the value prescribed for each sheet, provided that this value is made up for each sheet required by the aggregate value of the stamps supplied for it: the Court decided in the negative, on the ground that the provision at the end of Schedule A, to the effect that any deed, instrument, or writing, required by it to be stamped, may be written on stamps of the aggregate value, refers only to writings the stamp duty on which is determined by the said Schedule A, and that the meaning of the note below A 24 is, that information regarding copies of papers to be given from Courts of Justice, Revenue Kutcheries, &c., is not to be looked for in that Schedule, but in Schedule B.—18th February 1861.

The Court held that a security bond demanded under Section 342 of Act VIII. of 1859 by the Sudder Adawlut, should be on a stamp of Rs 2, as prescribed for petitions—9th February 1861.

**Schedule  
B 1**

On a question being submitted, whether a decree or judgment in a suit valued at less than Rupees 50 is a "judicial proceeding filed on record," a copy of which must be upon a stamp of eight annas, the Judges replied that, in their opinion, decrees and judgments are "judicial proceedings filed on the record"; and that, therefore, copies of them not specially provided for in Schedule B 2, must be charged for under B 3, which will include copies of decrees or judgments for an amount below Rupees 50.

**Schedule  
B 2 and 3.**

The Judges further stated, that they do not consider the term "judicial proceedings," as used in B 3, to be restricted to those which may have been filed in evidence; and they dissented from an opinion expressed that the provisions of Schedule B 3 are applicable to a copy of a Moonsiff's decree applied for in the appellate Court, where it had been filed with the petition of appeal.—18th March 1861, No. 611.

On a reference it was held by the Judges,—

1st.—That the paper "No. 3 of the Stamp Office" is not identical with paper of the 3rd class, as issued from the Stamp Office of this Presidency.

**Schedule  
B 2 and 3.**

2nd.—That the provision at the end of Schedule B 3, Act XXXVI. of 1860, applies equally to Schedule B 2, as respects the size of the paper to be used.

3rd.—That the Court's Circular, No. 163, of the 31st January 1860, must be considered to be superseded, and that, pending further orders of Government, the "size fixed for copy paper" in this Presidency is No. 5 of the Bombay Stamp Office, called also "English No. 3 demy paper."—19th March 1861, No. 625.

The Judges held, that stamped paper is not required for copies of deeds, when the originals are returned, under Section 135 or 136 of Act VIII. of 1859.—18th March 1861, No. 611.

**Schedule  
B 3**

On a representation being made that paper of the size prescribed for copies of decrees was not procurable, the Court, as a special case, allowed paper of a larger size to be cut to the proper size and used, being

**Schedule  
B 3.**

endorsed as cut because paper No. 3 was not procurable.—15th November 1860.

*In re Ootum Koonver (Ahmedabad).*

**Schedule  
B 3.**

The attention of the Zillah Judges and Collectors was called to the provision in Schedule B 3, Act XXXVI. of 1860, that copies of certain papers shall be given on sheets of a size not exceeding No. 3 of the Stamp Office, and that they shall be written on one side only. They were also informed that the maximum size permitted by this provision is not to be made up by the attaching of unstamped material to stamped paper of a smaller size.—*Circular*, 13th December 1860, No. 2253.

**Schedule  
B 3.**

A doubt having been expressed as to the construction to be put on Schedule B 3, it was stated that in the opinion of the Judges the language used in it is very ambiguous, but that they consider the meaning to be that, when the original documents therein described have been filed on record (that is, when they have become part of the records of any "Court of Justice, Revenue Kutcherry, &c." whether filed on the record of any suit or not) copies of them may be obtained on stamped paper of the value of eight annas per sheet, and that copies left on proceedings in place of such originals withdrawn should be on paper of the same value.—18th March 1861, No. 611.

**Schedule  
B 3**

On questions being submitted whether, when a Court has called for papers under Section 138, Act VIII. of 1859, the parties can then file copies of such of them as they consider of importance, whether the Court can certify the correctness of those copies, and whether the amount of the stamp is to be regulated by Schedule B 3, it was replied that the Section above quoted contemplates nothing more than inspection by the Civil Court of the papers sent for, use being made of them so far as it may tend to elucidate the facts of the case and to promote the ends of justice, and that this can be done without filing the papers, or taking any copies of them, which, if required, should be applied for in the usual way from the officer to whose records they may belong. It was noticed that the proceedings provided for in the Section referred to is entirely optional with the Court, and should not be adopted without sufficient reason.—18th March 1861, No. 611.

**Schedule  
B 3.**

On a reference being made, the Judges replied, that they consider copies of *bonds* filed on record in place of originals withdrawn, do not require a stamp; but that this ruling does not extend to copies of shop-books, which are provided for in Schedule B 3 of the Stamp Act.—25th May 1861, No. 1405.

**Schedule  
B 3, 5, and  
6.**

In reply to questions, whether copy of a decision passed under Sections 229 and 230 of Act VIII. of 1859, is to be stamped according to Schedule B 2, and what is the principle on which the amount is to be estimated for Stamp Duty in the petition of appeal allowed by Section 231, under Schedule B 6: the Judges stated with reference to

the first question, that any decision given under Sections 229 and 230, though of the same force as a decree, is not actually a decree, and therefore that a copy can be claimed on stamped paper of the value prescribed by Schedule B 3; and with regard to the second question, that the value of the stamp, on which the appeal allowed by Section 231 should be preferred, must, as the decision has the force of a decree, and the appeal from it is therefore not provided for in Schedule B 5, be governed by B 6, and the value of the property in question must determine the amount at which the appeal will be laid, the words of the Act being in both Sections "as if a suit for the property had been instituted."—18th March 1861, No. 611.

A petition presented by a wakeel on behalf of a convict was rejected by the Court, as it was not from the convict direct, and the wakeel held no Mooktiarnama on stamped paper authorising him to appear on the prisoner's behalf.—3rd October 1861.

Schedule  
B 4.

*In re Bussungowda (Dharwar).*

The Court returned an application presented by a wakeel, on the grounds that the wakalutnama was on a stamp of insufficient value, and that the attachment of a second stamp to make up the value was not permissible under Act XXXVI. of 1860.—31st October 1860.

Schedule  
B 4.

*In re Pandoorung Anundrow (Sholapoor).*

A petition presented by a wakeel, who had been appointed a Mooktiar on behalf of a convict, for the reversal of a Magistrate's order was rejected, the Court holding, that neither the petition nor the Mooktiarnama could be received as they were on unstamped paper.—3rd October 1860.

Schedule  
B 4.

*In re Ootumchund (Surat).*

A petition of appeal, which the Court held to be included in the word "plaint" in Schedule B 5, Act XXXVI. of 1860, in a suit amounting to Rs. 7,101 from an order rejecting an appeal, was rejected on the ground that, the stamp of Rupees 2, on which it was written, was inadequate.—28th November 1860.

Schedule  
B 5.

*In re Juggoobha Abasingjee (Ahmedabad).*

The Judges held that applications for authenticated copies of orders in miscellaneous matters should be in writing and on stamped paper; and further, that Schedule B 5, of Act XXXVI. of 1860, requires separate applications on stamp paper to be made for copies of orders given on petitions, as the stamp on which a petition may be written covers only the matter of that petition.—1st February 1861, No. 197.

Schedule  
B 5.

It was ruled by the Court, that there was no objection to the grant of copies of any number of papers recorded in the same suit on a single application, which, however, must be on stamped paper.—20th February 1861.

Schedule  
B 5.

*In re Khoorsut Beebee (Konkun).*

**Schedule  
B 5**

To a question whether, since all applications are to be on stamped paper, with the exceptions specified under Schedule B 5, an application, under Section 198, Act VIII. of 1859, for a copy of a judgment or decree can still be made orally, it was replied that as the provision in Section 198 of the Civil Procedure Act is one of a special nature and not specially repealed, it should not be regarded as affected by the general terms of the rule in Schedule B 5 of the Stamp Act.—*18th March 1861, No. 611.*

**Schedule  
B 5.**

In reply to a question whether applications for the return of documents under Sections 135 or 136 of Act VIII. of 1859 should be on stamped or unstamped paper, the Judges held that all applications presented to any Civil Court in relation to any matter cognizable by such Court, must, under Schedule B 5, be on stamped paper, unless exempted by any special provision of law, such as Section 198 of Act VIII. of 1859.—*18th March 1861, No. 611.*

[NOTE.—This ruling will supersede the resolutions of the Court passed before Act XXXVI. of 1860 came into operation, and forming part of the Court's Circular, No. 273, of the 11th February 1861, in which it was stated, that applications made under Sections 60, 79, 88, and 96 of Act VIII. of 1859 may be oral.]

**Schedule  
B 5.**

Enquiry having been made which is the "judgment" under Section 359, Act VIII. of 1859, the English original, or the vernacular translation, or are they duplicate originals, such that a copy of either falls under Schedule B 2; and, in the former case, is that copy, which is not considered the original, to be held as falling under the provisions of Schedule B 3. He was informed, that the judgment written in English, or, in default of English, in the vernacular language of the Judge, as directed by Sections 184 and 359 of Act VIII. of 1859, is the original judgment. If it is such as to require a translation, the latter is a translation and not the judgment translated, and the Judges therefore consider that, hard as the rule may be, a copy of the translation, if required, must, as the Law stands, be applied for by written application, subject to the conditions as regards stamps, of Schedule B 5, of the Stamp Act.—*18th March 1861, No. 611.*

**Schedule  
B 5.**

The Judges expressed their concurrence in the opinion, that applications by parties under Section 138, Act VIII. of 1859 do not fall within the second general exemption of Act XXXVI. 1860, Schedule B 5. An application to a Court to *procure* evidence for the parties, it was observed differs materially from an application "in reference to the production or filing of a document" procured by the parties themselves, and if such applications may be presented free of costs, few persons will take the trouble of supplying themselves with the requisite documentary evidence in other ways, though Section 128 Act VIII. of 1859, evidently contemplates that this labour should no longer devolve, save in exceptional cases, upon the Court.—*18th March 1861, No. 611.*



The Judges expressed their concurrence in the opinion that an application by a decree-holder, under Section 226, Act VIII. of 1859, must be upon a stamp of eight annas under Schedule B 5, and that the investigation may proceed upon such application as on a plaint, Section 229 not requiring that a suit shall be instituted, but directing that after application is made as above, the investigation shall proceed "as if a suit had been instituted."—18th March 1861, No. 611.

**Schedule  
B 5.**

In reply to a reference, the Judges stated, that applications for copies of decrees passed in the Sudder Dewanee Adawlut, must be presented to that Court as the only one having cognisance in the matter.—18th March 1861, No. 611.

**Schedule  
B 5.**

The Judges assented to the view that the application under Section 230 of Act VIII. of 1859, must be received on the usual stamp of eight annas, and numbered, registered, and investigated as a suit.—18th March 1861, No. 611.

**Schedule  
B 5.**

The Judges concurred in the opinion that one copy only of the decree and judgment can, under Section 108 of Act VIII. of 1859, be orally applied for, and that applications for additional copies must be presented on stamped paper.—18th March 1861, No. 611.

**Schedule  
B 5**

It was held by the Judges, that copies of judgments or decrees given in by parties with their petitions of appeal or special appeal, do not come within the term "exhibits" used in Sections 135 and 136 of Act. VIII. of 1859, and that the parties are not entitled to the return of them. Should they require copies, they must procure others, for which, of course, applications on stamped paper are necessary.—18th March 1861, No. 611.

**Schedule  
B 5.**

The Judges held, that an application for possession under Act XVI. of 1838, Section I. Clause 2, need not be made on stamped paper, and it was stated in explanation that the Court did not consider the application referred to for possession pending ejection by a decree of the Court of Adawlut, to be a plaint instituting a suit.—7th May 1861, No. 1244.

**Schedule  
B 5.**

On a question being submitted, the Judges held that a written statement in a suit under Rs. 50 does not require a stamp.—25th May 1861, No. 1405.

**Schedule  
B 5.**

The Judges held, that the application for the certificate provided by Section 98 of Act VIII. of 1859 must, under Schedule B 5, of Act XXXVI. of 1860, be stamped, but that there was no provision in any part of the Stamp Act, which required a stamp for a certificate issued in conformity with Section 98 of Act, VIII. of 1859, or with note f, Schedule B 6, of Act XXXVI. of 1860.—25th October 1860, No. 1891.

**Schedule  
B 5 and 6  
(f)**

- Schedule B 5 and 7.** In reply to a reference, the Judges stated their opinion, that no Stamp is required for a Razeenama presented in a Moonsiff's Court in a suit for less than Rupees 50, since Schedule B 7 provides that a Razeenama shall be charged as a "petition," and it is enacted in the "general exemption" under B 5, that no charge shall be made for a petition in such a suit.—*4th June 1861, No. 1481.*
- Schedule B 6.** A Zillah Judge having submitted a question whether regular appeals in the Zillah Courts are to be filed on stamped paper or not, as he found no provision for appeals against decrees in the Stamp Act, the Court referred him to Schedule B 6 of the said Act.—*10th November 1860, No. 1999.*
- Schedule B 6.** On a reference made, it was held by the Judges, that the practice of joining two or more stamps of lower value, to make up the proper value of the stamp required for plaints, &c., is illegal under Schedule B of Act XXXVI. of 1860.—*11th April 1861, No. 941.*
- Schedule B 6 (f)** On a proposal by a Zillah Judge, that with reference to Schedule B 6, note *f*, it would be a great saving of time and trouble to allow an appellant to file his second appeal on unstamped paper, instead of returning him the stamp duty on the first appeal and demanding it afresh on the second, it was intimated that the provisions of the Act should be carried out.—*10th November 1860, No. 1999.*
- Miscellaneous.** The Court of Sudder Foujdaree Adawlut rejected an appeal for the reversal of a sentence of fine, the same not being on a stamped paper, and the petitioner not being in duress or under restraint of the Court or its officers.—*3rd October 1860.*
- In re Bhowrow (Konkun).*
- Miscellaneous** The Judges held that a Moonsiff's Sunnud did not require to be on stamp paper under Act. XXXVI. of 1860.—*1st November 1860, No. 1942.*
- Miscellaneous.** On a reference made, the Judges declared, that certificates of heirship granted under Regulation VIII. of 1827, need not be written on stamped paper.—*10th April 1861, No. 892.*
- Miscellaneous.** In reply to a question, whether no stamp paper of eight annas required for a security bond being procurable, it would be proper to receive eight annas in cash from the party requiring to pass the bond, and allow him to execute it on plain paper, it was stated, that the course proposed would not be proper.
2. To a question whether, under the abovementioned circumstances in the event of the party furnishing the bond on a stamp of higher value than eight annas, the excess over the eight annas could be refunded to him by the Collector, it was replied that the Judges thought this a point for the consideration of Government.—*22nd April 1861, No. 1088.*
- Miscellaneous.** To a question submitted, it was answered by the Judges that the Stamp Act does not require sunnuds for pleaders in the Revenue Courts to be drawn out upon stamped paper.—*28th May 1861, No. 1424.*

**ACT No. XXXVII of 1860.**

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PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 11th August 1860.)*

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*An Act to repeal Act XVI of 1859.*

WHEREAS the Secretary of State in Council for India has, in pursuance of  
the power vested in him by law, disallowed Act XVI of  
1859, and has signified to the Governor-General of India  
in Council his disallowance thereof: It is enacted as follows:—

Act repealed.

Act XVI of 1859 is hereby repealed.

ACT No. XXXVIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 11th August 1860.)

*An Act to explain Act XXX of 1858 (to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic.)*

WHEREAS doubts have arisen whether certain debts contracted by Prince Azeem Jah Bahadoor during the infancy of the late Nabob of the Carnatic were debts or claims within the meaning of Section XIV or any subsequent Section of Act XXX of 1858; and whereas it is expedient to remove such doubts as well as other doubts which exist as to the power of the Supreme Court of Judicature at Madras to award costs in investigations under Section XXII of the said Act, and as to whether cases so investigated are appealable to Her Majesty in Council; and whereas Act XVI of 1859 removing such doubts has been repealed; It is declared and enacted as follows:—

I. No debt contracted by the said Prince Azeem Jah Bahadoor during the minority of the said late Nabob shall be deemed a debt or claim within the meaning of the said Section XIV or any subsequent Section of the said Act, unless such debt was incurred by the said Prince Azeem Jah Bahadoor actually and *bonâ fide* on behalf and for the use of the said Nabob.

II. Upon any investigation under Section XXII of the said Act XXX of 1858, it shall be lawful for the Court, except as otherwise provided by the said Act, to award costs to either party and to

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and to cause the same to be levied in the same manner as costs in an ordinary suit.

III. It is hereby declared that it was not the intention of the said Act to  
Appeal to the Queen in Council, exclude from appeal to Her Majesty in Council any awards, orders, or decisions of the said Supreme Court made upon any investigation under Section XXII as aforesaid.

ACT No. XXXIX OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 18th August 1860.)

An Act to amend Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices).

WHEREAS it is expedient to amend Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices): It is enacted as follows:—

I. The Duties mentioned in Sections I and III of the said Act shall be collected and paid in respect of every public office or employment of profit in the territories of any Foreign Prince or State in alliance with Her Majesty, held by any public servant within such territories by virtue of an appointment made by any Government or public servant of Her Majesty in India, whether the salary or profits of such office or employment are paid out of, or derived from, the revenues of India or not.

II. The several provisions, rules, and exemptions in the said Act relating to the said Duties in respect of public offices and employments, and annuities, pensions, and salaries payable by the Government of India, and to the assessment, reduction, and payment thereof, shall apply and extend to the said Duties in the first Section of this Act mentioned.

III. Whenever

ACT No. XXXIX OF 1860.

III. Whenever the Governor-General of India in Council shall under Section CXLIII of the said Act XXXII of 1860, postpone the period for the said Act to come into operation in any part of India, the operation of the said Act shall not be suspended in respect of the Duties payable for and in respect of any land or houses situate in such part of India, unless the same shall be specially exempted in the order for postponement, or for or in respect of any interest, annuities, or dividends payable out of the public revenues of India, or for or in respect of any office or employment of profit, or for or in respect of any annuity, salary, or pension payable in such part of India. But all the provisions, rules, and exemptions in the said Act relating to the said Duties mentioned in this Section shall take effect in respect thereof, notwithstanding such postponement, to the same extent and in the same manner as if no such postponement had taken place.

IV. Section XXXIII of the said Act, requiring that every Commissioner and Collector or other Officer employed in making any assessment under the said Act, shall before acting in execution of the said Act take an oath of secrecy, shall not apply or extend to any Ex-officio Assessor constituted by Section XXVI of the said Act for executing the said Act for the purpose of assessing and discharging the Duties thereby imposed in respect of interest on Securities in the Government of India, and the other Duties in the said Section referred to, or to the Ex-officio Assessors constituted by Sections XXVII, XXVIII, XXIX, and XXX of the said Act, for executing the said Act for the purpose of assessing the Duties in respect of the salaries, pay, and allowances and pensions in those Sections respectively mentioned, so as to avoid or affect any assessment of such Duties made by such Ex-officio Assessors before taking the oath of secrecy mentioned in the said Section XXXIII, or so as to expose any such Ex-officio Assessor to any prosecution or proceedings whatsoever for making any assessment of such Duties as aforesaid without having taken the said oath of secrecy.

V. Every assessment heretofore made by any of the said Ex-officio Assessors of any of the Duties in the last preceding Section mentioned, and which would have been valid if such Assessor had, before acting in the execution of the said Act, duly taken the oath prescribed by the said Section XXXIII thereof, shall be a valid assessment of the said Duties, notwithstanding that such Assessor may not, before or at the time of making the said assessment, have taken an oath of secrecy as prescribed by the said Section, or any oath.

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VI. No action, indictment, information, or other proceeding shall be had or taken against any Ex-officio Assessor for or by reason of his having made any assessment of any of the Duties in Section IV of this Act mentioned, without having taken the oath of secrecy prescribed by Section XXXIII of the said Act XXXII of 1860, or any oath of secrecy.

VII. The exemption provided in Section CXXVII of the said Act XXXII of 1860 shall not extend to Officers, Non-Commissioned Officers, or Privates of Her Majesty's Forces or of Her Majesty's Indian Military Forces who may be in Civil employment other than employment in the Police.

VIII. Section CXXVIII of the said Act XXXII of 1860 is hereby repealed.

IX. All Commissioned Officers and Warrant Officers of Her Majesty's Navy or of the Indian Naval Forces, whose naval pay and allowances shall not exceed the full pay and allowances of a Lieutenant in Her Majesty's Indian Naval Forces:

All Officers and persons in the employment of Government in the Marine Department, whose pay and allowances shall not exceed the pay and allowances of a Lieutenant in Her Majesty's Indian Naval Forces:

All petty Officers or Seamen of Her Majesty's Navy or of Her Majesty's Indian Naval Forces, and all Seamen in the employment or pay of the Government, shall be exempted from the said Duties in respect of any pay or allowances which they may receive from Her Majesty, or from the Government, or from any public Revenue.

Provided always that the said exemptions of Officers or persons in the employment of the Government of India in the Marine Department, shall extend to all Officers and persons in the said employment, who may, by virtue of their employment, be bound to serve, or be liable to be required by the Government to serve on board of a ship or vessel at sea, or in any river or port, whether such Officers or persons shall be actually so serving or not; but shall not extend to any Officer or person who

may



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may not, by virtue of his employment, be bound or liable so to serve, when and if required by the Government.

Construction.

X. This Act shall be read and construed as part of Act XXXII of 1860.

Act No. XL. of 1860,  
been passed  
the Stamp Order  
R.

ACT No. XLI OF 1860. *A*

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PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor-General on the 3rd. October 1860.)*

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*An Act relating to the Emigration of Native Laborers to the British Colony of Saint Kitts.*

WHEREAS it is expedient to render lawful the Emigration of laborers, being Native Inhabitants of British India, to the British Colony of Saint Kitts, and to extend the provisions of Act XXXI of 1855 (*relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada*) to the Emigration of Native Inhabitants of British India who may emigrate to Saint Kitts; It is enacted as follows :—

I. Act XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colony of Saint Kitts, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed.

II. All the provisions of Act XXXI of 1855 and of the Schedule thereto shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to Saint Kitts

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Kitts, and that Act shall be read as if the words "or the British Colony of Saint Kitts" had been inserted therein after the words "Saint Lucia and Grenada," or "Saint Lucia or Grenada," wherever those words occur in the said Act.

III. This Act shall take effect as to the Colony of Saint Kitts from the day when the Governor-General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided and such measures taken as the Governor-General in Council deems necessary for the protection of such emigrants during their residence in the said Colony of Saint Kitts and in respect of their return to India.

*Commencement of Act.*

ACT No. XLII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 6th. October 1860.)

*An Act for the Establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter.*

WHEREAS, with a view to the more easy recovery of small debts and demands, it is expedient to establish Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of judicature established by Royal Charter at the several Presidencies of Calcutta, Madras, and Bombay ; It is enacted as follows :—

I. It shall be lawful for the Executive Government of any of the said Presidencies or of any place, with the previous sanction of the Governor-General in Council, to constitute Courts of Small Causes, with the required establishment of Officers, at any place within the limits of their respective Governments, for the trial of suits under this Act, and to abolish any Court so constituted. Provided that no Judge of any Court constituted under this Act shall exercise any Civil jurisdiction except under the provisions of this Act.

II. Whenever any such Court may be so constituted, the Executive Government shall fix the territorial jurisdiction of such Court, and may, from time to time, alter the same as may appear proper.

III. The following are the suits which shall be cognizable by Courts of Small Causes constituted under this Act, namely, claims for money due, whether on bond or other contract, or for rent, or for personal property, or for the value of such property,

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perty, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees. Provided

**Proviso.** that no action shall lie in any such Court on a balance of partnership account, unless the balance shall have been struck by the parties or their agents; or for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will; or for any claim for the rent of land or any other claim for which a suit may be brought before a Revenue Officer, or for the recovery of damages on account of alleged personal injuries, unless special damage of a pecuniary nature shall have resulted from such injury.

**IV.** Every Court of Small Causes constituted under this Act shall have cognizance of all such suits as are mentioned in the last preceding Section, if the defendant at the time of the commencement of the suit shall dwell or personally work for gain within the local limits of the jurisdiction of such Court.

**V.** Every Court constituted under this Act shall use a seal, bearing the following inscription in English and in the language of the Court—" Court of Small Causes of \_\_\_\_\_ ;" and every such Court shall be subject to the general control and orders of the Sudder Court.

**VI.** Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court under the provisions of this Act shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Small Cause Court. Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or a Deputy Magistrate, can now exercise in regard to debts or other claims of a civil nature; or the jurisdiction which can be exercised by Village Moonsiffs or Village or District Panchayets under the provisions of the Madras Code, or by Military Courts of Request, or by

Suits within the jurisdiction of and cognizable by Small Cause Courts, not to be heard by any other Court.

Saving of jurisdiction of Magistrate, &c.

Of Village Moonsiffs and Village or District Panchayets in Madras.

ACT No. XLII OF 1860.

by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859, or by a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military Bazars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively, or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

*of Military Courts of Request—  
of single Officers appointed to try small suits in Madras and Bombay.*

*and of Military Punchayets in Madras.*

VII. Courts of Small Causes constituted under this Act shall be held at such place or places within the local limits of their respective jurisdictions as shall from time to time be appointed by the local Government to which such Courts are subordinate.

*Courts where to be held.*

VIII. Whenever any such Court is directed to be held at more places than one within the local limits of its jurisdiction, the Judge of such Court, subject to the control of the Sudder Court, shall appoint the time at which the Court shall hold its sittings in every such place. Due notice of the time so appointed shall be given by a proclamation to be fixed up in some conspicuous place in the Court-house or other building in which the sittings of the Court are to be held.

*Time of holding Courts, if they be directed to be held in more places than one.*

IX. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

*Summons.*

X. At the time of passing a decree under this Act, the Court may on the verbal application of the party in whose favor the decree is passed, direct immediate execution of the same by the issue of a warrant directed either generally against the personal property of the judgment debtor wherever it may be found within the local limits of the Court's jurisdiction, or specially against any personal property belonging to the judgment debtor within the same limits which may be indicated by the judgment creditor.

*On application, immediate execution of decree may be granted against personal property of judgment debtor.*

XI. In

ACT No. XLIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 6th. October 1860.)

An Act to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.)

WHEREAS it is expedient to amend the provisions relating to special appeals contained in Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter); It is enacted as follows:—

I. No special appeal shall lie from any decision or order which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sudder Court, in any suit of the nature cognizable in Courts of Small Causes under Act XLII of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed five hundred Rupees. But every such order or decision shall be final.

No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

II. If in any suit in which an order or decision is made final under this Act, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court trying such suit shall entertain reasonable doubts, the Court may either of its own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Sudder Court.

Reference of question to the Sudder.

III. The



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III. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court, pending which execution not to issue. referred ; but no execution shall be issued in any case in which a reference shall be made to the Sudder Court, until the receipt of the order of that Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

IV. Cases referred for the opinion of the Sudder Court shall be dealt with by a full bench of that Court.

Full bench of the Sudder Court to decide cases referred under this Act.

V. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Sudder Court to fix an early day for the hearing of the case. Proclamation thereof.

VI. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

VII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment under the seal of the Court and the signature of the Register, to the Court by which the reference was made ; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Parties may appear and be heard in person or by pleader.

Decision of Sudder Court how to be transmitted.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Costs of reference to Sudder Court.

IX. Nothing in this Act shall extend to any decision or order passed on regular appeal by any Assistant Judge in the Presidency of Bombay.

Act not to extend to decisions passed on regular appeal by Assistant Judges in Bombay.

X. This Act shall be construed and read as part of Act VIII of 1859.

Construction of Act

ACT No. XLIV OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 6th. October 1860.)

*An Act for providing for the exercise of certain powers by the Governor-General during his absence from his Council.*

**Preamble.** WHEREAS the Governor-General in Council has declared that it is expedient that the Governor-General should visit the North-Western Provinces of the Presidency of Fort William in Bengal, and other parts of India, unaccompanied by any Member of his Council ; It is enacted as follows :—

**Powers to be exercised by the Governor-General during his absence from Council.** I. During the absence of the Governor-General from his Council, it shall be lawful for the Governor-General alone to exercise all the powers which might be exercised by the Governor-General in Council in every case in which the said Governor-General may think it expedient to exercise those powers.

**Powers of the President in Council.** II. All powers vested in the Governor-General in Council by any Act of the Government of India, may be lawfully exercised by the President in Council.

**Commencement and duration of Act.** III This Act shall commence from the day on which it shall be notified, by an order published in the Official Gazette, that the Governor-General has quitted Calcutta for the purpose of so proceeding as aforesaid, and shall not continue in force for a longer period than three months.

# THE INDIAN PENAL CODE.

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# THE INDIAN PENAL CODE.

## ARRANGEMENT OF SECTIONS.

### CHAPTER I.

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# ACT No. XLV OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor-General on the 6th October 1860.)*

## THE INDIAN PENAL CODE.

### CHAPTER I.

Preamble.

WHEREAS it is expedient to provide a General Penal Code for British India ; It is enacted as follows :--

1. This Act shall be called THE INDIAN PENAL CODE, and shall take effect on and from the 1st day of May 1861 throughout the whole of the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said Territories on or after the said 1st day of May 1861.

3. Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said Territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said Territories, in the same manner as if such act had been committed within the said Territories.

4. Every



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4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions thereof, of which he, whilst in such service, shall be guilty on or after the said 1st day of May 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company, or which may have been or may hereafter be made in the name of the Queen by any Government of India.

*Punishment of offences committed by a servant of the Queen within a Foreign allied State.*

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4 William IV Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said Territories, or the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty or of the East India Company, or of any Act for the Government of the Indian Navy, or of any special or local law.

*Certain laws not to be affected by this Act.*

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CHAPTER II.

GENERAL EXPLANATIONS.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

*Definitions in the Code to be understood subject to exceptions.*

*Illustrations.*

(a) The Sections, in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a Police

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(b) A, a Police Officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

Expression once explained is used in the same sense throughout the Code.

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

Gender.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

"Man."  
"Woman."

10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age.

"Person."

11. The word "person" includes any Company or Association or body of persons, whether incorporated or not.

"Public."

12. The word "public" includes any class of the public or any community.

"Queen."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

14. The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria Chapter 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India or any Government.

"Servant of the Queen."

15. The

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15. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

16. The words "Government of India" denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone as regards the powers which may be lawfully exercised by them or him respectively.

17. The word "Government" denotes the person or persons authorized by law to administer executive Government in any part of British India.

18. The word "Presidency" denotes the Territories subject to the Government of a Presidency.

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

*Illustrations.*

- (a) A Collector exercising jurisdiction in a suit under Act X of 1859, is a Judge.
- (b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.
- (c) A Member of a Panchayet which has power, under Regulation VII. 1816 of the Madras Code, to try and determine suits, is a Judge.
- (d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. The

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20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

*Illustration.*

A Panchayet acting under Regulation VII. 1816 of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :—

*First.* Every covenanted servant of the Queen ;

*Second.* Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India, or any Government ;

*Third.* Every Judge ;

*Fourth.* Every Officer of a Court of Justice whose duty it is, as such Officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

*Fifth.* Every Juryman, assessor, or member of a Panchayet assisting a Court of Justice or public servant ;

*Sixth.* Every Arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

*Seventh.* Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

*Eighth.* Every

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*Eighth.* Every Officer of Government whose duty it is, as such Officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience;

*Ninth.* Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every Officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty;

*Tenth.* Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

*Illustration.*

A Municipal Commissioner is a public servant.

*Explanation 1.* Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

*Explanation 2.* Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to any thing which is attached to the earth.

23. "Wrongful

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“Wrongful gain.” 23. “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled.

“Wrongful loss.” “Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

“Wrongful gain” includes wrongful retention of property. A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

“Wrongful loss” includes the being wrongfully kept out of property.

24. Whoever does any thing with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing “dishonestly.”

“Dishonestly.”

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

“Fraudulently.”

26. A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing, but not otherwise.

“Reason to believe.”

27. When property is in the possession of a person’s wife, clerk, or servant, on account of that person, it is in that person’s possession within the meaning of this Code.

Property in possession of wife, clerk, or servant.

*Explanation.*—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this Section.

28. A person is said to “counterfeit,” who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

“Counterfeit.”

*Explanation.*—

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*Explanation.*—It is not essential to counterfeiting that the imitation should be exact.

29. The word “document” denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

“Document.”

*Explanation 1.* It is immaterial by what means, or upon what substance the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

*Illustrations.*

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A Check upon a Banker is a document.

A Power of Attorney is a document.

A Map or Plan which is intended to be used, or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

*Explanation 2.* Whatever is expressed by means of letters, figures, or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this Section, although the same may not be actually expressed.

*Illustration.*

A writes his name on the back of a Bill of Exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the Bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words “pay to the holder,” or words to that effect, had been written over the signature.

30. The words “valuable security” denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

“Valuable security.”

*Illustration.*

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*Illustration.*

A writes his name on the back of a Bill of Exchange. As the effect of this endorsement is to transfer the right to the Bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A Will." 31. The words "a will" denote any testamentary document.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.  
Words referring to acts include illegal omissions.

"Act."  
"Omission." 33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Each of several persons liable for an act done by all in like manner as if done by him alone. 34. When a criminal act is done by several persons, each of such persons is liable for that act in the same manner as if the act were done by him alone.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention, is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.  
When such an act is criminal by reason of its being done with a criminal knowledge or intention.

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.  
Effect caused partly by act and partly by omission.

*Illustration.*

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

37. When



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37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Co-operation by doing one of several acts constituting an offence.

*Illustrations.*

(a) A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint Jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a Jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

*Illustration.*

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

39. A person is said to cause an effect "voluntarily," when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

"Voluntarily."

*Illustration.*

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*Illustration.*

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act : yet, if he knew that he was likely to cause death, he has caused death voluntarily.

“ Offence” 40. The word “ offence” denotes a thing made punishable by this Code.

“ Special Law.” 41. A “ special law” is a law applicable to a particular subject.

“ Local Law.” 42. A “ local law” is a law applicable only to a particular part of British India.

43. The word “ illegal” is applicable to every thing which is an offence or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be “ legally bound to do” whatever it is illegal in him to omit.

“ Illegal.”  
“ Legally bound to do.”

44. The word “ injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

“ Injury.”

45. The word “ life” denotes the life of a human being, unless the contrary appears from the context.

“ Life.”

46. The word “ death” denotes the death of a human being, unless the contrary appears from the context.

“ Death.”

47. The word “ animal” denotes any living creature, other than a human being.

“ Animal.”

48. The word “ vessel” denotes any thing made for the conveyance by water of human beings, or of property.

“ Vessel.”

49. Whenever

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49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

" Year."

50. The word "Section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

" Section."

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

" Oath."

52. Nothing is said to be done or believed in good faith, which is done or believed without due care and attention.

" Good faith."

---

CHAPTER III.

OF PUNISHMENTS.

53. The punishments to which offenders are liable under the provisions of this Code are—

Punishments.

*First*,—Death;

*Secondly*,—Transportation;

*Thirdly*,—Penal servitude;

*Fourthly*,—Imprisonment, which is of two descriptions, namely:

(1.) Rigorous, that is, with hard labor.

(2.) Simple.

*Fifthly*,—

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*Fifthly*,—Forfeiture of property.

*Sixthly*,—Fine.

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

55. In every case in which sentence of transportation for life shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

56. Whenever any person being a European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV of 1855.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender

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offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

*Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.*

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned.

*Sentence of forfeiture of property.*

*Illustration.*

A being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force, A's father dies, leaving an estate which but for the forfeiture, would become the property of A. The estate becomes the property of Government.

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported, or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

*Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment.*

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

*Amount of fine.*

64. In

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64. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

Sentence of imprisonment in default of payment of fine.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Description of imprisonment for such default.

67. If the offence be punishable with fine only, the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Such imprisonment to terminate upon payment of the fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment, is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Termination of such imprisonment upon payment of proportional part of fine.

*Illustration.*

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*Illustration.*

A is sentenced to a fine of one hundred Rupees, and to four months' imprisonment in default of payment. Here, if seventy-five Rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five Rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty Rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty Rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Fine may be levied within 6 years, or at any time during the term of imprisonment.

Death of offender not to discharge his property from liability.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Limit of punishment of offence which is made up of several offences.

*Illustration.*

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

Punishment of a person found guilty of one of several offences, the judgment stating that it is doubtful of which.

73. Whenever

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73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

A time not exceeding one month if the term of imprisonment shall not exceed six months.

A time not exceeding two months if the term of imprisonment shall exceed six months and be less than a year.

A time not exceeding three months if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

75. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same; provided that he shall not in any case be liable to imprisonment for a term exceeding ten years.

Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment.

Chapter IV.



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CHAPTER IV.

GENERAL EXCEPTIONS.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Act done by a person bound, or by mistake of fact believing himself bound by law.

*Illustrations.*

(a) A, a soldier, fires on a mob by the order of his superior Officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an Officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act of Judge when acting judicially.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done pursuant to the judgment or order of a Court of Justice.

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, justified by law in doing it.

Act done by a person justified, or by mistake of fact believing himself justified by law.

*Illustration.*

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing

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80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner, by lawful means, and with proper care and caution.

Accident in the doing of a lawful act.

*Illustration.*

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Act likely to cause harm, but done without a criminal intent, and to prevent other harm.

*Explanation.*—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

*Illustrations.*

(a) A, the Captain of a Steam Vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with 20 or 30 passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only 2 passengers on board which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(b) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child under 7 years of age.

83. Nothing

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Act of a child above 7 and under 12 years of age, who has not sufficient maturity of understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law..

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law ; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

87. Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm ; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

*Illustration.*

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play ; and if A, while playing fairly, hurts Z, A commits no offence.

88. Nothing

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88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

*Illustration.*

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

89. Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person. Provided—

Act done in good faith for the benefit of a child or person of unsound mind, by or by consent of guardian.

Provisoes.

*First.* That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

*Secondly.* That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

*Thirdly.* That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

*Fourthly.* That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

*Illustration.*

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*Illustration.*

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

90. A consent is not such a consent as is intended by any Section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception—Or

Consent known to be given under fear or misconception.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or, unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Consent of a child or person of unsound mind.

91. The exceptions in Sections 87, 88, and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Acts which are offences independently of harm caused to the person consenting, are not within the exceptions in Sections 87, 88, and 89,

*Illustration.*

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm;" and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit. Provided—

Act done in good faith for the benefit of a person without consent.

Provisoos.

*First.* That

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*First.* That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

*Secondly.* That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

*Thirdly.* That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

*Fourthly.* That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

*Illustrations.*

(a.) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b.) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c.) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d.) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

*Explanation.* Mere pecuniary benefit is not benefit within the meaning of Sections 88, 89, and 92.

Communication made in good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

*Illustration.*

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*Illustration.*

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Except murder and offences against the State, punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence ; provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

*Explanation 1.*—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

*Explanation 2.*—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

OF THE RIGHT OF PRIVATE DEFENCE.

Nothing done in private defence is an offence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property.

97. Every person has a right, subject to the restrictions contained in Section 99 to defend—

*First.* His

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*First.* His own body, and the body of any other person, against any offence affecting the human body;

*Secondly.* The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

98. When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Right of private defence against the act of a person of unsound mind, &c.

*Illustrations.*

(a.) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b.) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

99. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

Acts against which there is no right of private defence.

*Second.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

*Third.*—There



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*Third.*—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

*Fourth.*—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Extent to which the right may be exercised.

*Explanation 1.*—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

*Explanation 2.*—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction; or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding Section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

When the right of private defence of the body extends to causing death.

*First.*—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault—

*Secondly.*—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault—

*Thirdly.*—An assault with the intention of committing rape—

*Fourthly.*—An assault with the intention of gratifying unnatural lust—

*Fifthly.*—An assault with the intention of kidnapping or abducting—

*Sixthly.*—An

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*Sixthly.*—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. If the offence be not of any of the descriptions enumerated in the last preceding Section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

When such right extends to causing any harm other than death.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

Commencement and continuance of the right of private defence of the body.

103. The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely—

When the right of private defence of property extends to causing death.

*First.*—Robbery.

*Secondly.*—House-breaking by night.

*Thirdly.*—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property.

*Fourthly.*—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

104. If

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104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding Section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer of any harm other than death.

When such right extends to causing any harm other than death.

Commencement and continuance of the right of private defence of property.

105. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

*Second.*—The right of private defence of property against theft continues till the offender has effected his retreat with the property or the assistance of the public authorities is obtained, or the property has been recovered.

*Third.*—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

*Fourth.*—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

*Fifth.*—The right of private defence of property against house-breaking by night, continues as long as the house-trespass which has been begun by such house-breaking continues.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk,

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

*Illustration.*

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*Illustration.*

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.  
OF ABETMENT.

Abetment of a thing. 107. A person abets the doing of a thing, who—

*First.*—Instigates any person to do that thing; or,

*Secondly.*—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

*Thirdly.*—Intentionally aids, by any act or illegal omission, the doing of that thing.

*Explanation 1.*—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

*Illustration.*

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

*Explanation 2.*—Whoever, either prior to or at the time of the commission of an act, does any thing in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Abettor.

*Explanation 1.*—The

ACT No. XLV OF 1860.

*Explanation 1.*—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

*Explanation 2.*—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

*Illustrations.*

- (a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.
- (b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

*Explanation 3.*—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

*Illustrations.*

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

*Explanation 4.*—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

*Illustration.*

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### *Illustration.*

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

*Explanation 5.*—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

### *Illustration.*

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section, and is liable to the punishment for murder.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

*Explanation.*—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

### *Illustrations.*

(a) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in Section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Whoever

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110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it; provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Liability of abettor when one act is abetted and a different act is done.

Proviso.

*Illustrations.*

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house, and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. If the act for which the abettor is liable under the last preceding Section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Abettor when liable to cumulative punishment for act abetted and for act done.

*Illustration.*

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress

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distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

*Illustration.*

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor, present when offence is committed.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes harm to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.

If an act which causes harm be done in consequence of the abetment.

*Illustration.*

A instigates B to murder Z. The offence is not committed. If B had murdered Z he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term



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a term which may extend to seven years, and also to a fine; and if any hurt be done to Z in consequence of of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Whoever abets an offence punishable with imprisonment shall, if that offence, be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

*Illustrations.*

(a.) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B refuses to accept the bribe, A is punishable under this Section.

(b.) A instigates B to give false evidence. Here, if B does not give false evidence, A as nevertheless committed the offence defined in this Section, and is punishable accordingly.

(c.) A, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d.) B abets the commission of a robbery by A, a police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Abetting the commission of an offence by the public, or by more than 10 persons.

*Illustration.*

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*Illustration.*

A affixes in a public place a placard, instigating a sect consisting of more than ten members, to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this Section.

118. . Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years: and in either case shall also be liable to fine.

Concealing a design to commit an offence punishable with death or transportation for life—

If the offence be committed.

If the offence be not committed.

*Illustration.*

A knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this Section.

119. . Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term

A public servant concealing a design to commit an offence which it is his duty to prevent—

If the offence be committed.

If the offence be punishable with death, &c.

term

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term which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

*Illustration.*

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this Section.

120. Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Concealing a design to commit an offence punishable with imprisonment—

If the offence be committed.

If not committed.

CHAPTER VI,

OF OFFENCES AGAINST THE STATE.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

*Illustration*

(a.) A joins an insurrection against the Queen. A has committed the offence defined in this Section.

(b.) A in India abets an insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

122. Whoever

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122. Collecting arms &c. with the intention of waging war against the Queen. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

123. Concealing with intent to facilitate a design to wage war. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

124. Assaulting Governor-General, Governor, &c. with intent to compel or restrain the exercise of any lawful power. Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Governor, Lieutenant-Governor, or Member of Council, assaults, or wrongfully restrains, or attempts wrongfully to restrain, or overawes by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor-General, Governor, Lieutenant-Governor, or Member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

125. Waging war against any Asiatic power in alliance with the Queen. Whoever wages war against the Government of any Asiatic power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added ; or with imprisonment of either description for a term which may extend to seven years, to which fine may be added ; or with fine.

126. Committing depredation on the territories of any power at peace with the Queen. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend

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extend to seven years, and shall also be liable to fine and to forfeiture of any property used, or intended to be used, in committing such depredation, or acquired by such depredation.

127. Receiving property taken by war or depredation mentioned in Sections 125 and 126. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in Sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

128. Public servant voluntarily allowing Prisoner of State or War in his custody to escape. Whoever, being a public servant, and having the custody of any State Prisoner or Prisoner of War, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

129. Public servant negligently suffering Prisoner of State or War in his custody to escape. Whoever, being a public servant, and having the custody of any State Prisoner or Prisoner of War, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

130. Aiding escape of, rescuing, or harbouring such prisoner. Whoever knowingly aids or assists any State Prisoner or Prisoner of War in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Explanation.*—A State Prisoner or Prisoner of War who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful

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lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting mutiny, or attempting to seduce a soldier or sailor from his duty.

132. Whoever abets the committing of mutiny by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

133. Whoever abets an assault by an officer, soldier, or sailor in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office.

134. Whoever abets an assault by an officer, soldier, or sailor in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

135. Whoever

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135. Abetment of the desertion of a soldier or sailor. Whoever abets the desertion of any officer, soldier, or sailor in the Army or Navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

136. Harbouring a deserter. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, or sailor in the Army or Navy of the Queen has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Exception.*—This provision does not extend to the case in which the harbour is given by a wife to her husband.

137. Deserter concealed on board merchant vessel through negligence of master. The master or person in charge of a merchant vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred Rupees, if he might have known of such concealment, but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

138. Abetment of act of insubordination by a soldier or sailor. Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

139. Persons subject to Articles of War not punishable under this Code. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this Chapter.

140. Wearing the dress of a soldier. Whoever, not being a soldier in the Military or Naval service of the Queen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that

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that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly, is—

*First.* To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant-Governor, or any Public Servant in the exercise of the lawful power of such Public Servant; or

*Second.* To resist the execution of any law, or of any legal process; or

*Third.* To commit any mischief or criminal trespass, or other offence; or

*Fourth.* By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

*Fifth.* By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

*Explanation.*—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. Whoever



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143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.
- Punishment.
144. Whoever, being armed with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
- Joining an unlawful assembly armed with any deadly weapon.
145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
- Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.
146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.
- Force used by one member in prosecution of common object.
147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
- Punishment for rioting.
148. Whoever is guilty of rioting, being armed with a deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- Rioting, armed with a deadly weapon.
149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.
- Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object.

150. Whoever

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150. Whoever hires or engages or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months or with fine, or with both.

*Explanation.*—If the assembly is an unlawful assembly within the meaning of Section 141 the offender will be punishable under Section 145.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly or to suppress a riot or affray, or uses, or threatens or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

153. Whoever maliciously or wantonly, by doing any thing which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

154. Whenever

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154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand Rupees, if he or his agent or manager, knowing that such offence is being or has been committed or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest Police station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

157. Whoever

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157. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Harbouring persons hired for an unlawful assembly.

158. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with any thing which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

Or to go armed.

159. When two or more persons, by fighting, in a public place, disturb the public peace, they are said to "commit an affray."

Affray.

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred Rupees, or with both.

Punishment for committing affray.

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CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward

Public servant taking a gratification other than legal remuneration, in respect of an official act.

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reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

*Explanations.*—“Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this Section.

“Gratification.” The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

“A motive or reward for doing.” A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

*Illustrations.*

(a) A, a Moonsiff, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favor of Z. A has committed the offence defined in this Section.

(b) A, holding the office of Resident at the Court of a subsidiary power, accepts a lakh of Rupees from the Minister of that power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favor in the exercise of his official functions to that power. A has committed the offence defined in this Section.

(c) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this Section.

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162. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

*Illustrations.*

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust—are not within this Section, inasmuch as they do not exercise or profess to exercise personal influence.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding Sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for abetment by public servant of the offences above defined.

*Illustration*

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*Illustration.*

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

165. Whoever, being a public servant, accepts, or obtains, or agrees to

Public servant obtaining any valuable thing, without consideration, from person concerned in any proceeding or business transacted by such public servant.

accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted, or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

*Illustrations.*

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty Rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred Rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government Promissory Notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

166. Whoever, being a public servant, knowingly disobeys any direction

Public servant disobeying a direction of the law, with intent to cause injury to any person.

of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

*Illustration*

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*Illustration.*

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favor by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this Section.

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

*Public servant framing an incorrect document with intent to cause injury.*

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

*Public servant unlawfully engaging in trade.*

169. Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

*Public servant unlawfully buying or bidding for property.*

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under color of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Personating a public servant.*

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that

*Wearing garb or carrying token used by public servant with fraudulent intent.*



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that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred Rupees, or with both.

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CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant, legally competent, as such public servant, to issue such summons, notice, or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both ; or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order, or intentionally prevents the lawful affixing to any place of any such summons, notice, or order, or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both ; or, if the summons, notice, order, or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

174. Whoever

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174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

*Illustrations.*

(a) A, being legally bound to appear before the Supreme Court at Calcutta, in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this Section.

(b) A, being legally bound to appear before a Zillah Judge, as a witness, in obedience to a summons issued by that Zillah Judge, intentionally omits to appear. A has committed the offence defined in this Section.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

*Illustration.*

A, being legally bound to produce a document before a Zillah Court, intentionally omits to produce the same. A has committed the offence defined in this Section.

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term

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term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both; or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Illustrations.*

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the District that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this Section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the House of Z, a wealthy merchant residing in a neighboring place, and being bound, under Clause 5 Section VII. Regulation III. 1821 of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest Police Station, wilfully misinforms the Police Officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in this Section.

178. Whoever refuses to bind himself by an oath to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Refusing oath when  
duly required to take oath  
by a public servant.

179. Whoever

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179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Refusing to answer a public servant authorized to question.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Refusing to sign statement.

181. Whoever, being legally bound by an oath to state the truth on any subject to any public servant or other person authorized by law to administer such oath, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False statement on oath to public servant or person authorized to administer an oath.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit any thing which such public servant ought not to do or omit if, the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

False information, with intent to cause a public servant to use his lawful power to the injury of another person.

*Illustrations.*

(a.) A informs a Magistrate that Z, a police officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that

the

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the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this Section.

(b.) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this Section.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Resistance to the taking of property by the lawful authority of a public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

185. Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of a public servant.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Obstructing public servant in discharge of his public functions.

187. Whoever

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187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health, or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

*Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce harm.

*Illustration.*

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this Section.

189. Whoever

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189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application, for protection against any injury, to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

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CHAPTER XL

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

191. Whoever, being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

*Explanation 1.*—A statement is within the meaning of this Section, whether it is made verbally or otherwise.

*Explanation 2.*—A false statement as to the belief of the person attesting is within the meaning of this Section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

*Illustration.*

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*Illustrations.*

(a) A, in support of a just claim which B has against Z for one thousand Rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing any thing upon the subject. A gives false evidence whether Z was at that place on the day named, or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

192. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

*Illustrations.*

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter, in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

193. Whoever



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193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Explanation. 1.*—A trial before a Court Martial or before a Military Court of Request is a judicial proceeding.

*Explanation 2.*—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

*Illustration.*

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

*Explanation 3.*—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

*Illustration.*

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by this Code, shall be punished with transportation for life,

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

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life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

If innocent person be thereby convicted and executed.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause any person to be convicted of an offence which by this Code is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment.

*Illustration.*

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Using evidence known to be false.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Issuing or signing a false certificate.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

199. Whoever

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199. Whoever, in any declaration made or subscribed by him, which  
False statement made in any declaration which is by law receivable as evidence. declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration  
Using as true any such declaration known to be false. knowing the same to be false in any material point shall be punished in the same manner as if he gave false evidence.

*Explanation.*—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 199 and 200.

201. Whoever, knowing or having reason to believe that an offence has  
Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender— been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the  
If a capital offence. offence is punishable with transportation for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable  
If punishable with transportation. with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.  
If punishable with less than ten years' imprisonment.

*Illustration.*

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*Illustration.*

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of an offence, by a person bound to inform.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Destruction of document to prevent its production as evidence.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

206. Whoever

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206. Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for any thing in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

*Illustration.*

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him,

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him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this Section.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Dishonestly making false claim in a Court of Justice.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for any thing in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently obtaining a decree for a sum not due.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

False charge of offence made with intent to injure.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if

Harbouring an offender—  
If a capital offence.

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if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

*Exception.*—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

*Illustration.*

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

213. Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if a capital offence, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

214. Whoever

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214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

*Offering gift or restoration of property in consideration of screening offender—*

*If a capital offence.*

*If punishable with transportation for life, or with imprisonment.*

*Exception.*—The provisions of Sections 213 and 214 do not extend to any case in which the offence consists only of an act irrespective of the intention of the offender, and for which act the person injured may bring a civil action.

*Illustrations.*

(a) A assaults B with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit murder, it does not fall within the exception, and cannot therefore be compounded.

(b) A assaults B. Here, as the offence consists simply of the act, irrespective of the intention of the offender, and as B may have a civil action for the assault, it is within the exception, and may be compounded.

(c) A commits the offence of bigamy. Here, as the offence is not the subject of a civil action, it cannot be compounded.

(d) B commits the offence of adultery with a married woman. The offence may be compounded.

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses

*Taking gift to help to recover stolen property &c.*



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uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

*Harbouring an offender who has escaped from custody, or whose apprehension has been ordered—*

*If a capital offence.*

*If punishable with transportation for life or with imprisonment.*

*Exception.*—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save or knowing it to be likely that he will thereby save any person from legal punishment or subject him to a less punishment than that to which he is liable, or with intent to save or knowing that he is likely thereby to save any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.*

218. Whoever

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218. . . Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause or knowing it to be likely that he will thereby cause loss or injury to the public or to any person, or with intent thereby to save or knowing it to be likely that he will thereby save any person from legal punishment, or with intent to save or knowing that he is likely thereby to save any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

219. . . Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law.

220. . . Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

221. . . Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

Punishment.

With

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With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with death ; or

With imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years ; or

With imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

222. Whoever, being a public servant, legally bound as such public servant

Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice.

to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall

Punishment.

be punished as follows, that is to say :—

With transportation for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement or who ought to have been apprehended is under sentence of death ; or

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards ; or

With

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With imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement or who ought to have been apprehended is subject by a sentence of a Court of Justice to imprisonment for a term not extending to ten years.

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Escape from confinement negligently suffered by a public servant.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

*Explanation.*—The punishment in this Section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

Resistance or obstruction to the lawful apprehension of another person.

Punishment.

Or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to

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to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

228. Whoever

ACT No. XLV OF 1860.

228. Whoever intentionally offers any insult or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

*Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.*

229. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as a juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or, knowing himself to have been so returned, empanelled, or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Personation of a juror or assessor.*

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

230. Coin is metal used as money stamped and issued by the authority of some Government in order to be so used.

*Coin.*

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, is the Queen's coin.

*Queen's coin.*

*Illustrations.*

- (a) Cowries are not coin.
- (b) Lumps of unstamped copper, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.
- (d) The coin denominated as the Company's Rupee is the Queen's coin.

231. Whoever

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231. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.*—A person commits this offence, who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

232. Whoever counterfeits or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be

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be liable to fine; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable fine.

236. Abetting in India the counterfeiting out of India of coin. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

237. Import or export of counterfeit coin. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

238. Import or export of counterfeits of the Queen's coin. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

239. Delivery to another of coin, possessed with the knowledge that it is counterfeit. Whoever, having any counterfeit coin which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

240. Delivery of Queen's coin, possessed with the knowledge that it is counterfeit. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which at the time when he became possessed of it he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

241. Whoever



ACT No. XLV OF 1860.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Delivery to another of coin as genuine, which when first possessed the deliverer did not know to be counterfeit

*Illustration.*

A, a coiner, delivers counterfeit Company's Rupees to his accomplice B, for the purpose of uttering them. B sells the Rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the Rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the Rupees, discovers that they are counterfeit, and pays them away as if they were good. Here D is punishable only under this Section, but B and C are punishable under Section 239 or 240 as the case may be.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment

Person employed in a mint causing coin to be of a different weight or composition from that fixed by law.

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imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Unlawfully taking from a mint any coining instrument.*

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.*

*Explanation.* A person who scoops out part of the coin, and puts anything else into the cavity, alters the composition of that coin.

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin.*

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

*Altering appearance of any coin with intent that it shall pass as a coin of a different description.*

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.*

250. Whoever

ACT No. XLV of 1860.

250. Whoever, having coin in his possession with respect to which the offence defined in Section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

251. Whoever, having coin in his possession with respect to which the offence defined in Section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

252. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

253. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

254. Whoever

ACT No. XLV OF 1860.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Sections 246, 247, 248, or 249, has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

*Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.*

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Counterfeiting a Government stamp.*

*Explanation.*—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.*

257. Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with

*Making or selling instrument for the purpose of counterfeiting a Government stamp.*

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with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Sale of counterfeit Government stamp.*

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Having possession of a counterfeit Government stamp.*

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Using as genuine a Government stamp known to be counterfeit.*

261. Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

*Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause loss to Government.*

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either

*Using a Government stamp known to have been before used.*

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either description for a term which may extend to two years, or with fine, or with both.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Erasure of mark denoting that Stamp has been used.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false instrument for weighing.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

267. Whoever makes, sells, or disposes of, any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used

Making or selling false weights or measures.

as

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as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

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CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

268. A person is guilty of a public nuisance, who does any act, or is  
Public nuisance. guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Whoever unlawfully or negligently does any act which is, and which  
Negligent act likely to spread infection of any disease dangerous to life. he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

270. Whoever malignantly does any act which is, and which he knows  
Malignant act likely to spread infection of any disease dangerous to life. or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

271. Whoever knowingly disobeys any rule made and promulgated by  
Disobedience to a quarantine rule. the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or  
with

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with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Adulteration of food or drink which is intended for sale.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of noxious food or drink.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Adulteration of drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of adulterated drugs.

276. Whoever



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276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of any drug as a different drug or preparation.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Fouling the water of a public spring or reservoir.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred Rupees.

Making atmosphere noxious to health.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Rash driving or riding on a public way.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Rash navigation of a vessel.

281. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either

Exhibition of a false light, mark, or buoy.

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either description for a term which may extend to seven years, or with fine, or with both.

282. Conveying person by water for hire in a vessel overloaded or unsafe. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

283. Danger or obstruction in a public way or navigation. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred Rupees.

284. Negligent conduct with respect to any poisonous substance. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

285. Negligent conduct with respect to any fire or combustible matter. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

286. Whoever

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286. Negligent conduct with respect to any explosive substance. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

287. Negligent conduct with respect to any machinery in the possession or under the charge of the offender. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

288. Negligence with respect to pulling down or repairing buildings. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

289. Negligence with respect to any animal. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

290. Punishment for public nuisance. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred Rupees.

291. Whoever

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291. *Continuance of nuisance after injunction to discontinue.* Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

292. *Sale &c. of obscene books.* Whoever sells or distributes, imports or prints for sale or hire, or willfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

*Exception.* This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any Temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. *Having in possession obscene book for sale or exhibition.* Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding Section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

294. *Obscene songs.* Whoever sings, recites, or utters in or near any public place any obscene song, ballad, or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

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CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

295. *Injuring or defiling a place of worship, with intent to insult the religion of any class.* Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their

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their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

*Disturbing a religious assembly.*

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

*Trespassing on burial places, &c.*

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

*Uttering words &c. with deliberate intent to wound the religious feelings of any person.*

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CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

OF OFFENCES AFFECTING LIFE.

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

*Culpable homicide.*

*Illustration.*

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*Illustrations.*

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B; or to cause death by doing an act that he knew was likely to cause death.

*Explanation 1.* A person who causes bodily injury to another who is laboring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

*Explanation 2.* Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

*Explanation 3.* The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. Except in the cases hereinafter excepted, culpable homicide is  
Murder. murder, if the act by which the death is caused is done  
with the intention of causing death, or—

*2ndly.* If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

*3rdly.* If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

*4thly.* If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as  
is

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is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

*Illustrations.*

(a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

*Exception 1.* Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

When culpable homicide is not murder.

The above exception is subject to the following provisos:—

*First.* That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

*Secondly.* That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

*Thirdly.* That the provocation is not given by anything done in the lawful exercise of the right of private defence.

*Explanation.* Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is a question of fact;

*Illustration.*

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*Illustrations.*

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a by-stander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

*Exception 2.* Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

*Illustration.*

Z attempts to horse-whip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

*Exception 3.* Culpable homicide is not murder if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

*Exception 4.*



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*Exception 4.* Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

*Explanation.* It is immaterial in such cases which party offers the provocation or commits the first assault.

*Exception 5.* Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death, or takes the risk of death with his own consent.

*Illustration.*

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

301. If a person, by doing any thing which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Culpable homicide by causing the death of a person other than the person whose death was intended.

Punishment for murder to fine.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable

Punishment for murder by a life convict.

303. Whoever being under sentence of transportation for life, commits murder, shall be punished with death.

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the

Punishment for culpable homicide not amounting to murder.

the

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the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

307. Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

*Illustrations.*

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this Section.

(b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this Section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this Section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this Section.

(d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this Section. A places the food on Z's table

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able, or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this Section.

308. Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both ; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Attempt to commit culpable homicide.

*Illustration.*

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this Section.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, and shall also be liable to fine.

Attempt to commit suicide.

310. Whoever at any time after the passing of this Act shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a Thug.

Thug.

311. Whoever is a Thug shall be punished with transportation for life, and shall also be liable to fine.

Punishment.

OF THE CAUSING OF MISCARRIAGE, OF INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years,

Causing miscarriage.

or

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or with fine, or with both ; and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Explanation.* A woman who causes herself to miscarry is within the meaning of this Section.

313. Whoever commits the offence defined in the last preceding Section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above-mentioned.

*Explanation.* It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

316. Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description

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description for a term which may extend to ten years, and shall also be liable to fine.

*Illustration.*

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this Section.

317. Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exposure and abandonment of a child under twelve years by parent, or person having care of it.

*Explanation.* This Section is not intended to prevent the trial of the offender for murder or culpable homicide as the case may be, if the child die in consequence of the exposure.

318. Whoever by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Concealment of birth by secret disposal of dead body.

OF HURT.

Hurt. 319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Grievous hurt. 320. The following kinds of hurt only are designated as "grievous:"—

*First.* Emasculation.

*Secondly.* Permanent privation of the sight of either eye.

*Thirdly*

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*Thirdly.* Permanent privation of the hearing of either ear.

*Fourthly.* Privation of any member or joint.

*Fifthly.* Destruction or permanent impairing of the powers of any member or joint.

*Sixthly.* Permanent disfiguration of the head or face.

*Seventhly.* Fracture or dislocation of a bone or tooth.

*Eighthly.* Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

*Explanation.* A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

*Illustration.*

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Whoever

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323. Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Punishment for voluntarily causing hurt.

324. Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing hurt by dangerous weapons or means.

325. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for voluntarily causing grievous hurt.

326. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description for a term, which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt by dangerous weapons or means.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything

Voluntarily causing hurt to extort property or to constrain to an illegal act.

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anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

328. Whoever administers to, or causes to be taken by any person, any poison or any stupefying, intoxicating, or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

330. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Illustrations.*

(a) A, a police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this Section.

(b) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this Section.

(c) A, a revenue



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(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this Section.

(d) A, a zemindar, tortures a ryot in order to compel him to pay his rent. A is guilty of an offence under this Section.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing hurt to deter public servant from his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to deter public servant from his duty.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the

Voluntarily causing hurt on provocation.

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the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

335. Whoever causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand Rupees, or with both.

*Explanation.* The last two Sections are subject to the same provisos as Exception 1 Section 300.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty Rupees, or with both.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred Rupees, or with both.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand Rupees, or with both.

WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

*Exception.* The

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*Exception.* The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this Section.

*Illustration.*

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

*Illustrations.*

(a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with fire-arms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

341. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

343. Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

344. Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

345. Whoever

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345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other Section of this Code.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined, or any person interested in such person, to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore, or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

OF CRIMINAL

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OF CRIMINAL FORCE AND ASSAULT.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion or change of motion or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling; provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described :

Force.

*First.*—By his own bodily power

*Secondly.*—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part or on the part of any other person.

*Thirdly.*—By inducing any animal to move, to change its motion, or to cease to move.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Criminal force.

*Illustrations.*

(a.) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here, A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion, A has therefore used

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used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

*Explanation.* Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

*Illustration.*

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins

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(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Punishment for using criminal force otherwise than on grave provocation.

*Explanation.* Grave and sudden provocation will not mitigate the punishment for an offence under this Section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence— or

If the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant— or

If the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Using criminal force to deter a public servant from discharge of his duty.

354. Whoever

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354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonor that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonor a person, otherwise than on grave provocation.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Assault or criminal force in attempt wrongfully to confine person.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both.

Assaulting or using criminal force on grave provocation.

*Explanation.*—The last Section is subject to the same explanation as Section 352.

OF KIDNAPPING, ABDUCTION, SLAVERY, AND FORCED LABOR.

359. Kidnapping is of two kinds; kidnapping from British India, and kidnapping from lawful guardianship.

360. Whoever



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360. Whoever conveys any person beyond the limits of British India without the consent of that person or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India.

Kidnapping from British India.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Kidnapping from lawful guardianship.

*Explanation.* The words "lawful guardian" in this Section include any person lawfully entrusted with the care or custody of such minor or other person.

*Exception.* This Section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Abduction.

363. Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for kidnapping.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to murder.

*Illustrations.*

(a) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this Section.

(b) A forcibly

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(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this Section.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting with intent secretly and wrongfully to confine a person.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting a woman to compel her marriage, &c.

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement.

Wrongfully concealing or keeping in confinement a kidnapped person.

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting child under ten years with intent to steal moveable property from the person of such child.

370. Whoever

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370. Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

373. Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

374. Whoever unlawfully compels any person to labor against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

OF RAPE.

375. A man is said to commit "rape," who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :—

*First*

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*First.* Against her will.

*Secondly.* Without her consent.

*Thirdly.* With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

*Fourthly.* With her consent, when the man knows that he is not her husband; and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

*Fifthly.* With or without her consent, when she is under ten years of age.

*Explanation.* Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

*Exception.* Sexual intercourse by a man with his own wife, the wife not being under ten years of age, is not rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for rape.

OF UNNATURAL OFFENCES.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman; or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Unnatural offences.

*Explanation.* Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.

Chapter XVII.

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CHAPTER XVII.

OF OFFENCES AGAINST PROPERTY.

OF THEFT.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Theft.

*Explanation 1.* A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

*Explanation 2.* A moving, effected by the same act which effects the severance, may be a theft.

*Explanation 3.* A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

*Explanation 4.* A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which, in consequence of the motion so caused, is moved by that animal.

*Explanation 5.* The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

*Illustrations.*

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d) A being

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(d) A, being Z's servant, and intrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k) Again, if A having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(p.) A in

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(p) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

Punishment for theft. 379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Theft in dwelling house, &c. 380. Whoever commits theft in any building, tent, or vessel which building, tent, or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by clerk or servant of property in possession of master. 381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after preparation made for causing death or hurt, in order to the committing of the theft. 382. Whoever commits theft, having made preparation for causing death or hurt or restraint, or fear of death or of hurt or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

*Illustrations.*

(a) A commits theft on property in Z's possession; and, while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this Section.

(b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this Section.

OF EXTORTION.

Extortion. 383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property

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property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion."

*Illustrations.*

(a) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Putting person in fear of injury in order to commit extortion.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Extortion by putting a person in fear of death or grievous hurt.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

388. Whoever



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388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and if the offence be one punishable under Section 377, may be punished with transportation for life.

Extortion by threat of accusation of an offence punishable with death or transportation, &c.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other, of having committed or attempted to commit, an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and if the offence be punishable under Section 377, may be punished with transportation for life.

Putting person in fear of accusation of offence, in order to commit extortion.

OF ROBBERY AND DACOITY. .

Robbery. 390. In all robbery there is either theft or extortion..

Theft is " robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint.

When theft is robbery.

Extortion is " robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person

When extortion is robbery.

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person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

*Explanation.*—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

*Illustrations.*

(a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(d) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand Rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons jointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding, is said to commit "dacoity."

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

394. If

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394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person, jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt in committing robbery.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

396. If any one of five or more persons; who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Dacoity with murder.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Robbery or dacoity, with attempt to cause death or grievous hurt.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Making preparation to commit dacoity.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation

Punishment for belonging to a gang of dacoits.

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portation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Punishment for belonging to a wandering gang of thieves.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest misappropriation of property.

*Illustrations.*

(a) A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this Section.

(b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this Section.

(c) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this Section.

*Explanation 1.* A dishonest misappropriation for a time only is a misappropriation within the meaning of this Section.

*Illustration.*

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### *Illustration.*

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this Section.

*Explanation 2.* A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

### *Illustrations.*

(a) A finds a Rupee on the high road, not knowing to whom the Rupee belongs. A picks up the Rupee. Here A has not committed the offence defined in this Section.

(b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this Section.

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favor the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this Section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this Section.

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this Section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this Section.

40f. . Whoever

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404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

*Illustration.*

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this Section.

OF CRIMINAL BREACH OF TRUST.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Criminal breach of trust.

*Illustrations.*

(a) A being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(b) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned, on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(c) A, residing in Calcutta, is agent for Z residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lac. of Rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(d.) But

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(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue officer, is entrusted with public money, and is either directed by law or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for criminal breach of trust.

407. Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by carrier, &c.

408. Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant, or agent.

OF THE

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OF THE RECEIVING OF STOLEN PROPERTY.

410. Property the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which the offence of criminal breach of trust has been committed, is designated as "stolen property." But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

412. Whoever dishonestly receives or retains any stolen property the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong, or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

OF CHEATING.



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OF CHEATING.

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to "cheat."

Cheating.

*Explanation.* A dishonest concealment of facts is a deception within the meaning of this Section.

*Illustrations.*

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(d) A, by tendering in payment for an article, a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonored, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(i) A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

416. A person

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416. A person is said to "cheat by personation," if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he, or such other person really is.

Cheating by personation.

*Explanation.* The offence is committed whether the individual personated is a real or imaginary person.

*Illustrations.*

- (a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.  
(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for cheating.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Cheating and dishonestly inducing a delivery of property.

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OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY.

421. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

423. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

OF MISCHIEF.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change

Mischief.

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change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief."

*Explanation 1.* It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

*Explanation 2.* Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

*Illustrations.*

(a) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.

(b) A introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(e) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(f) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Punishment for committing mischief. 426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

427. Whoever

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427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Committing mischief and thereby causing damage to the amount of 50 Rupees.*

428. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any animal or animals of the value of ten Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Mischief by killing or maiming any animal of the value of 10 Rupees.*

429. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

*Mischief by killing or maiming cattle, &c., or any animal of the value of 50 Rupees.*

430. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

*Mischief by injury to works of irrigation or by wrongfully diverting water.*

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

*Mischief by injury to public road, bridge, or river.*

432. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description

*Mischief by causing inundation or obstruction to public drainage attended with damage.*

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description for a term which may extend to five years, or with fine, or with both.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by destroying or moving &c. a land-mark fixed by public authority.

435. Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause damage to any property to the amount of one hundred Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees.

436. Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.

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imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

438. Whoever commits or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding Section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Punishment for the mischief described in the last Section when committed by fire or any explosive substance.*

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.*

440. Whoever commits mischief, having made preparation for causing to any person death or hurt or wrongful restraint, or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

*Mischief committed after preparation made for causing death or hurt.*

OF CRIMINAL TRESPASS.

441. Whoever enters into or upon property in the possession of another, with intent to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit criminal trespass.

*Criminal trespass.*

442. Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass."

*House-trespass.*

*Explanation.* The

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*Explanation.* The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit "lurking house-trespass."

*Lurking house-trespass by night.* 444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

445. A person is said to commit "house-breaking," who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways; that is to say:—

*First.* If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

*Secondly.* If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

*Thirdly.* If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened.

*Fourthly.* If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

*Fifthly.* If



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*Fifthly.* If he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault.

*Sixthly.* If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

*Explanation.* Any out-house or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this Section.

*Illustrations.*

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in his door-way. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(h) Z, the door-keeper of Y, is standing in Y's door-way, A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night."

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Punishment for criminal trespass.

448. Whoever

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448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Punishment for house-trespass.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with death.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with transportation for life.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine ; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

House-trespass after preparation made for causing hurt to any person.

453. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

445. Whoever

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454. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.

455. Whoever commits lurking house-trespass or house-breaking having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

456. Whoever commits lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking by night.

457. Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment.

458. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person.

459. Whoever

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459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

463. Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with

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with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a false document. 464. A person is said to make a false document—

*First.*—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made signed, sealed, or executed; or

*Secondly.*—Who, without lawful authority, dishonestly or fraudulently by cancellation or otherwise alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

*Thirdly.*—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

*Illustrations.*

(a) A has a letter of credit upon B for Rupees 10,000, written by Z. A, in order to defraud B, adds a cypher to the 10,000, and makes the sum 100,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.

(c) A picks up a cheque on a Banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand Rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a Banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand Rupees for the purpose  
of

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of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand Rupees. B commits forgery.

(e) A draws a Bill of Exchange on himself in the name of B without B's authority, intending to discount it as a genuine Bill with a Banker and intending to take up the Bill on its maturity. Here, as A draws the Bill with intent to deceive the Banker by leading him to suppose that he had the security of B, and thereby to discount the Bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B, and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government Promissory Note and makes it payable to Z, or his order, by writing on the Bill the words "Pay to Z, or his order" and signing the endorsement, B dishonestly erases the words "pay to Z or his order" and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an expressed or implied contract for service.

*Explanation 1.* A man's signature of his own name may amount to forgery

*Illustrations:*

(a) A signs his own name to a Bill of Exchange, intending that it may be believed that the Bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a Bill of Exchange drawn by B upon Z, and negotiate the Bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the Bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(c) A picks

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(c) A picks up a Bill of Exchange payable to the order of a different person of the same name. A endorses the Bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable : here A has committed forgery,

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure with intent to defraud A and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery, by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a color to the transaction, writes a Promissory Note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

*Explanation.* 2 The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

*Illustration.*

A draws a Bill of Exchange upon a fictitious person, and fraudulently accepts the Bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

465- Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for forgery.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or a Register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of a record of a Court of Justice, or of a public Register of Births, &c.

467. Whoever

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467. Whoever forges a document which purports to be a valuable security, or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

468. Whoever commits forgery intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

470. A false document made wholly or in part by forgery is designated "a forged document."

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

472. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 467, or with such intent has in his possession any such seal, plate, or other



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other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

473. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any Section of this Chapter other than Section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in Section 466, be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine; and if the document is one of the description mentioned in Section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a valuable security or will known to be forged with intent to use it as genuine.

475. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material.

476. Whoever

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476. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document other than the documents described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete, any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent, cancellation, destruction, &c., of a will.

OF TRADE AND PROPERTY-MARKS.

478. A mark used for denoting that goods have been made or manufactured by a particular person or at a particular time or place, or that they are of a particular quality, is called a trade-mark.

Trade-Mark.

479. A mark used for denoting that moveable property belongs to a particular person, is called a property-mark.

Property-mark.

480. Whoever marks any goods, or any case, package, or other receptacle containing goods, or uses any case, package, or other receptacle with any mark thereon, with the intention of causing it to be believed that the goods so marked, or any goods contained in any such case, package, or receptacle so marked, were made or manufactured by any person by whom

Using a false trade-mark.

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whom they were not made or manufactured, or that they were made or manufactured at any time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade-mark.

481. Whoever marks any moveable property or goods, or any case, package, or other receptacle containing moveable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked belong to a person to whom they do not belong, is said to use a false property-mark.

482. Whoever uses any false trade-mark or any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

483. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

484. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the same is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

485. Whoever

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485. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property or trade-mark, with intent to use the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

486. Whoever sells any goods with a counterfeit property or trade-mark whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to or impressed upon any goods or merchandize not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

487. Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

488. Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding Section.

489. Whoever

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489. Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

*Defacing any property-mark with intent to cause injury.*

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred Rupees, or with both.

*Breach of contract of service during a voyage or journey.*

*Illustrations.*

(a) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this Section.

(b) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed the offence defined in this Section.

(c) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this Section.

(d) A, by unlawful means, compels B, a cooly, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

*Explanation.* It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

*Illustration*

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### *Illustration.*

A contracts with a Dak Company to drive his carriage for a month. B employs the Dak Company to convey him on a journey, and during the month the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this Section.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred Rupees, or with both.

*Breach of contract to attend on and supply the wants of helpless persons.*

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or laborer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him or neglected to perform the contract on his part.

*Breach of a contract to serve at a distant place to which the servant is conveyed at the master's expense.*

## CHAPTER XX.

### OF OFFENCES RELATING TO MARRIAGE.

493. Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description

*Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.*

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description for a term which may extend to ten years, and shall also be liable to fine.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Marrying again during the life-time of husband or wife.*

*Exception.*—This Section does not extend to any person whose marriage, with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

495. Whoever commits the offence defined in the last preceding Section having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

*Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.*

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

*Marriage ceremony gone through with fraudulent intent without lawful marriage.*

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of

*Adultery.*

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of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals, or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Enticing or taking away or detaining with a criminal intent a married woman.

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CHAPTER XXI.

OF DEFAMATION.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Defamation.

*Explanation 1.* It may amount to defamation to impute any thing to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

*Explanation 2.* It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

*Explanation 3.* An imputation in the form of an alternative or expressed ironically, may amount to defamation.

*Explanation 4.* No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral



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moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

*Illustrations.*

(a) A says—"Z is an honest man ; he never stole B's watch" ; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the Exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

*First Exception.* It is not defamation to impute any thing which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Imputation of any truth which the public good requires to be made or published.

*Second Exception.* It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Public conduct of public servants.

*Third Exception.* It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no farther.

Conduct of any person touching any public question.

*Illustrations.*

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

*Fourth Exception.* It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Publication of reports of proceedings of Courts of Justice.

*Explanation.* A

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*Explanation.* A Justice, of the Peace or other Officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above Section.

*Fifth Exception.* It is not defamation to express in good faith any opinion whatever respecting the merits of any case, Civil or Criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Merits of a case decided in a Court of Justice; or conduct of witnesses and others concerned therein.

*Illustrations.*

(a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this Exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(b) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity;"—A is not within this Exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

*Sixth Exception.* It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no farther.

Merits of a public performance.

*Explanation.* A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

*Illustrations.*

(a) A person who publishes a book, submits that book to the judgment of the public.

(b) A person who makes a speech in public, submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.

(e.) But

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(e) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

*Seventh Exception.* It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Censure passed in good faith by a person having lawful authority over another.

*Illustrations.*

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his Bank for the conduct of such cashier as such cashier—are within this exception.

*Eight Exception.* It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation

Accusation preferred in good faith to a duly authorized person.

*Illustrations.*

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

*Ninth Exception.* It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Imputation made in good faith by a person for the protection of his interests.

*Illustrations.*

(a) A shopkeeper says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good, A is within the exception.

*Tenth Exception.* It

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*Tenth Exception.* It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed or of some person in whom that person is interested, or for the public good.

Caution intended for the good of the person to whom it is conveyed or for the public good.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Punishment for defamation.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

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CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

503. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Criminal intimidation.

*Explanation.—A*

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*Explanation.*—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this Section.

*Illustration.*

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Intentional insult with intent to provoke a breach of the peace.*

505. Whoever circulates or publishes any statement, rumour, or report which he knows to be false, with intent to cause any officer, soldier, or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

*Circulating false report with intent to cause mutiny or an offence against the state &c.*

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

*Punishment for criminal intimidation.*

*If threat be to cause death or grievous hurt, &c.*

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either

*Criminal intimidation by an anonymous communication.*

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either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding Section.

508. Whoever voluntarily causes or attempt to cause any person to do any thing which that person is not legally bound to do, or to omit to do any thing which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure.

*Illustrations.*

(a) A sits dhurna at Z's door with the intention of causing it to be believed that by so sitting he renders Z an object of divine displeasure. A has committed the offence defined in this Section.

(b) A threatens Z that unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of divine displeasure. A has committed the offence defined in this Section.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Word or gesture intended to insult the modesty of a woman.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten Rupees, or with both.

Misconduct in public by a drunken person.

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CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Punishment for attempting to commit offences punishable with transportation imprisonment.

*Illustrations.*

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this Section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket: A is guilty under this Section.

ACT No. XLVI OF 1860. *JA*

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 6th. October 1860.)

*An Act to authorize and regulate the Emigration of Native laborers to the French Colonies.*

WHEREAS a Convention has been negotiated between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following

Preamble.

Articles :—

ARTICLE I.

The French Government shall be at liberty to recruit and engage laborers for the French Colonies in the Indian Territories belonging to Great Britain, and to embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall intrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of laborers for British Colonies.

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ARTICLE IV. The



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ARTICLE IV.

The French Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself either that the Emigrant is not a British subject or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by Section 4 of Article IX, and by Section 2 of Article X, shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VIII.

The contracts shall, moreover, make stipulation for :—

1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government,

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Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI of the present Convention.

ARTICLE IX.

1. The duration of the Immigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

ARTICLE X.

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ARTICLE X.

The Immigrant shall not be bound to work more than six days in seven nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the laborer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British Ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall, on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the Depôts, or other place in which they may be lodged, in order to communicate with the British Agents, who on their part may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For

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For other Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessel using steam power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for the conveyance of Emigrants, subjects of Her Britannic Majesty, the Emigrants shall occupy, either between decks, or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

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ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third ; after two years more, it shall be raised to one-half ; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all laborers disembarked who are subjects of Her Britannic Majesty.
2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He

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He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

• ARTICLE XX.

All Immigrants, being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the laborer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of laborers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No laborer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Immigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII. The

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ARTICLE XXIII.

The labor regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labor more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Re-union, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

The present Convention shall begin to take effect on the 1st of September 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

It is

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It is understood that the stipulations of the present Convention relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favor of the said Indians until they shall either have been sent back to their own country or have renounced their right to a return-passage.

And whereas a Convention was concluded and signed at Paris on the 25th day of July 1860 between Her said Majesty the Queen of Great Britain and Ireland and His said Majesty the Emperor of the French, consisting of the same Articles, but limited to the emigration to the French Colony of Re-union from India of Native laborers to the number of not more than six thousand :

And whereas it is necessary, in order to give effect to the said Conventions, and for the due protection of Natives of India emigrating to French Colonies, that an Act of the Legislative Council of India should be passed ; It is enacted as follows :—

I. Act XIV of 1839 and Section III Act XXIV of 1852 are repealed in so far as they render liable to penalties every person who shall make with any Native of India any contract to be performed in the French Colonies of Re-Union, Martinique, Gaudeloupe and its dependencies, or Guiana, or in any other French Colony in which a British Consular Agent has been or shall hereafter be established, and to which this Act shall be extended by an order of the Governor-General of India in Council as hereinafter provided, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, or from any French Port in India to any of the said Colonies.

II. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras, and Bombay. Provided that such person, before entering on the duties of his office under this Act, shall have been approved by Her Majesty.

Nomination of Agents  
for Calcutta, Madras,  
and Bombay.

Proviso.



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III. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native laborers for all or any of the French Colonies aforesaid.

*Powers of Agents.*

IV. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native laborers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and advantages afforded to the Emigration Agents for British Colonies.

*Operations of recruitment.*

V. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of laborers emigrating under the provisions of this Act. In French Ports in India the duty confided to the British Consular Agents by Article V of the said Convention shall be performed under such instructions as may be given by the Governor-General in Council on that behalf.

*Protector of Emigrants.*

VI. All contracts of service made with laborers emigrating under this Act, except the contracts mentioned in Section 4 of Article IX and Section 2 of Article X of the above recited Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony to which he emigrates.

*Contracts of service, with certain exceptions, to be made in India. Effect of contract.*

VII. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

*Matters to be provided for in contract.*

1. The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The

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2. The number of days and hours of work.
3. The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.
4. Gratuitous medical treatment for the Emigrant, except in cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.
5. In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI of the Convention hereinbefore recited.

VIII. It shall not be lawful to convey any Emigrant, being a native of India, who may embark for the purpose of laboring for hire in any one of the said Colonies from any of the three British Ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency in which the Port is situated. A fee, not exceeding one Rupee per Emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license the Master of every ship conveying or destined to convey Emigrants from India, shall execute a Bond binding himself and his owners in a penal sum of ten thousand Rupees to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the British Consular Agent at such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be embarked without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable, as for a misdemeanor, to a fine of one hundred Rupees for every such Emigrant so illegally embarked.

Emigrant ships to be licensed.

Fee for license.

Master of ship to give Bond.

Penalty if ship be not licensed.

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IX. It shall not be lawful for the Master of any vessel licensed as above mentioned to receive on board any Emigrant laborer, as above provided, unless such laborer shall have in his possession and show a certificate or pass, to be given to him by the Emigration Agent of the Port under this Act, countersigned by the Protector of Emigrants, stating his name and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Master of vessel not to receive on board any emigrant without a certificate

Certificate what to state, &c.

X. The Protector of Emigrants shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the Port or place for which such Protector shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud or by any false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and that the real advantages likely to be derived from a removal to such Colony have been explained to such Emigrant, and that such Emigrant has been duly cautioned against unreasonable and unwarrantable expectations; and that every such Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease; provided that every such Protector shall make the enquiries specified in such Section in an open Court or public Office to which all persons shall have admission.

Protector to hold personal conference with every Emigrant before embarkation.

Enquiries to be made in public.

XI. Before any ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for any of the Colonies aforesaid, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Protector of Emigrants at such Port as aforesaid, a certificate, under the hand of such Protector, to the effect following, that is to say—

Before Port-clearance, Master of Ship to obtain certificate from Emigration Agent stating—

*First.*—That such Protector has by personal communication done what is required on the part of such Protector by the last preceding Section of this Act.

That the foregoing Section has been complied with.

*Second.*—That

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That the directions in this Act as to health &c. have been complied with.

*Second.*—That all the directions contained in this Act for ensuring the health and safety of passengers have been duly complied with.

*Third.*—That such rules have been complied with as the Governor-General in Council shall from time to time frame touching the Medical attendance and Medical stores and the proper clothing to be provided, the species of provisions suited to Native habits, the number of women that should accompany the Emigrants, or other matters.

That the rules issued by the Governor-General in Council as to Medical attendance &c., have been complied with.

XII. The probable lengths of the voyages to the several French Colonies from the Ports aforesaid shall be deemed for the purposes of this Act to be as follows :—

Probable lengths of voyage.

From the Port of Calcutta to Re-Union—

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

From the Port of Madras—

Between the months of April and October inclusive, seven weeks.

Between the months of November and March inclusive, five weeks.

From the Port of Bombay—

Between the months of April and September inclusive, five weeks ; and between the months of October and March inclusive, six weeks.

From the Port of Calcutta to Martinique, Guadeloupe and its dependencies, twenty weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

From the Port of Calcutta to Guiana, twenty-six weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

Provided that the Governor-General of India in Council may, by order to be published in the Calcutta Gazette, extend this Act to any other French

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Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the above recited Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony. Such declaration shall have the same force and effect as if it formed part of this Section.

*Time of sailing.* XIII. *Clause 1.*—Emigrants may leave India for the French Colonies to the East of the Cape of Good Hope at all times of the year.

*Clause 2.*—For the other French Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

*Clause 3.*—Every Emigrant sailing from India for any French Colony Westward of the Cape of Good Hope between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

XIV. Every Emigrant vessel must carry an European Surgeon and an Interpreter. The Master of every Emigrant vessel shall be bound to take charge of any despatch which may be delivered to him by the Protector of Emigrants at the Port of embarkation, for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

Emigrant vessel to carry an European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.

XV. *Clause 1.*—In every vessel employed for the conveyance of Emigrants, the Emigrants shall occupy, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of five feet and a half.

Space to be set apart for Emigrants on board ship.

*Clause 2.*—No

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*Clause 2.*—No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal, and for every cubic space of sixty feet in the Presidencies of Bombay and Madras.

*Clause 3.*—An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

*Clause 4.*—A place shall be fitted up for a hospital in every Emigrant ship.

*Clause 5.*—Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

XVI. There shall be actually laden on board of every ship or vessel conveying Emigrants into any of the Colonies aforesaid at the time of departure of such ship or vessel from the Port at which such laborers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following: that is to say—a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet-casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread-stuffs to the amount of seven pounds' weight to every week of the computed voyage for every such passenger. Provided always that, when any such ship or vessel shall be destined to call at a Port or place in the course of a voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling shall be deemed to be a compliance with this Regulation; and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor-General of India in Council, any other articles of food were substituted for the articles above enumerated, as being in his judgment equivalent thereto. Provided also that when any such ship or vessel is fitted with Normandy's Apparatus for distilling sea-water, a reduction shall be allowed of one-third in the quantity of water required to be provided as aforesaid.

Amount or proportion of provisions to be carried by Emigrant vessel over and above the victualling of the crew.

Provided.

XVII. Before

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**XVII.** Before any such ship or vessel shall be cleared out on any such voyage, the Protector of Emigrants at the Port or place from which such ship or vessel shall be cleared out, shall survey or cause to be surveyed by some competent person, the provisions and water herinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

**XVIII.** The Master of every ship or vessel conveying Emigrants to any of the said Colonies shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

**XIX.** Two copies of Sections X to XX inclusive of this Act, and two copies of a translation thereof in such Native language as the local Government may direct, authenticated by the signature of the Protector of Emigrants at the Port or place at which such Emigrants shall embark, shall be delivered to the Master by such Protector at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall, upon request made at any reasonable time to the Master of the ship or vessel, be produced to any passenger for his perusal.

**XX.** The Master of every ship or vessel carrying Emigrants from India to any of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to the Protector of Emigrants at the Port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on

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on board such ship or vessel, and such Protector shall thereupon deliver to the said Master the counterpart of such list signed by such Protector; and the said Master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the British Consular Agent at the Colony at which the said ship or vessel may have arrived.

**XXI.** If the Master of any ship or vessel shall, at any of the Ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for any of the said Colonies without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding two hundred Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for non-compliance with particulars required before clearance.

**XXII.** If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for any of the said Colonies, take on board any such Emigrant laborer as aforesaid without having entered such Emigrant laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid, containing the entry of such Emigrant prior to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding five hundred Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

**XXIII.** If any Master of any ship or vessel cleared for any of the said Colonies as aforesaid shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable on conviction to a penalty not exceeding five thousand Rupees, besides incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.



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XXIV. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for any of the said Colonies and of other offences against this Act; and all Pilots in the service of the Government of India shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.

XXV. Whenever a vessel shall clear from Calcutta for any of the said Colonies with Emigrant laborers duly embarked thereon, the Customs Officer on Board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer, and shall keep a register of every such Emigrant laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor roads, and shall not come away until muster of the crew and passengers and Emigrant laborers has been made in his presence and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in the last preceding Section of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete report of the Emigrant laborers on board of any ship at the time of his quitting the same; and such report shall contain a declaration that to the best of the declarant's belief no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster (if any) shall be transmitted without delay to the Protector of Emigrants at the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant laborers on board of any ship, or who shall connive at the unauthorized embarkation of any such Emigrant laborers,

Custom House Officers and Pilots at Calcutta to countersign papers.

To muster crew and passengers and Emigrants.

Report of Emigrants on board.

Penalty.

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laborers, shall be liable, besides dismissal, to a fine of five hundred Rupees, commutable if not paid to imprisonment in the Civil Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

**XXVI.** If any person shall forge, or shall use knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Punishment for forgery of document required by this Act.

**XXVII.** All the several penalties to which the Masters of ships or vessels are liable by this Act shall be enforced by information laid before any Magistrate or Justice of the Peace at the instance of the Protector of Emigrants or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Penalties how to be enforced.

**XXVIII.** All fines and penalties imposed by a Magistrate or Justice of the Peace under the authority of this Act, if no other means for enforcing the payment of such fines and penalties are provided by this Act, may in case of non-payment thereof be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate or Justice. When a warrant of distress is issued, the Magistrate or Justice may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if before issuing such warrant of distress it shall appear to the Magistrate or Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate or Justice whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency aforesaid shall be made to appear to the Magistrate or Justice, he shall, by warrant, commit the offender to jail, there to be imprisoned, according to the discretion of the Magistrate or Justice, for any term not exceeding two months where the amount of the fine

Levy of fines.

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fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case ; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

XXIX. Each shipment of Emigrants under this Act shall include a proportion of women equal to at least one fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third ; after two years more it shall be raised to one-half ; and after a further period of two years, the proportion shall be the same as has been or may be fixed for the British Colonies.

XXX. The Protector of Emigrants shall have at all reasonable times the right of access to every part of every ship which is appropriated to the use of Emigrants under this Act.

XXXI. This Act shall take effect as to the Emigration of Native laborers from India to the number of not more than six thousand to the Island of Re-union, from the time of the passing thereof, and shall take effect generally as to Emigration to the said Island and to Martinique, Guadeloupe and its dependencies, and Guiana, from the time when the Convention herein recited and set forth shall have been concluded and signed and shall take effect, and as to Emigration to any other French Colony, from such date as the Governor-General in Council in extending this Act to such Colony shall determine. From the time this Act shall so take effect, it shall continue in force so long as the said Convention shall continue in force and no longer. Provided that Act XIX of 1856 (*to enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native laborers*) shall have full force and effect in respect to the Emigration of Native laborers to any or all of the French Colonies under this Act.

ACT No. XLVII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 6th. October 1860.)

*An Act for giving to the Universities of Calcutta, Madras, and Bombay the power of conferring Degrees in addition to those mentioned in Acts II, XXII, and XXVII of 1857.*

WHEREAS it is expedient to give to the Universities of Calcutta, Madras, and Bombay, established under Acts II, XXII, and XXVII of 1857, the power of conferring Degrees other than the Degrees in that Act expressly provided for; It is enacted as follows :—

I. It shall be competent to the Chancellor, Vice Chancellor, and Fellows of the Universities of Calcutta, Madras, or Bombay respectively to confer such Degrees and to grant such Diplomas or Licenses in respect of Degrees as the said Chancellor, Vice Chancellor, and Fellows of any such University shall have appointed or shall appoint by any Bye-laws or Regulations made and passed or to be made or passed by them in the manner provided in the said Acts, and submitted to and approved by the Governor-General in Council as far as regards the University of Calcutta, or by the Governor in Council of Madras or Bombay as regards the Universities of Madras and Bombay respectively.

II. All the provisions contained in the said Acts II, XXII, and XXVII of 1857 with respect to the Degrees therein mentioned and to the examinations for those Degrees shall apply to any Degrees which may be conferred under this Act and to the examinations for such Degrees.

ACT No. XLVIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 26th December 1860).

*An Act to amend Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca).*

Whereas it is expedient to amend certain provisions of Act XIII of 1856 ;  
Preamble. It is enacted as follows:—

I. Sections XIII, XV, XXXII, XXXIII, XXXIV, XXXVIII, XXXIX, XL, XLIII, L, LI, LII, LV, LIX, LXVII, LXXV, LXXVI, LXXVIII, LXXXI, LXXXII, XCIX, CV, CXII, and CXV, of Act XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), are repealed, and the following Sections shall be read with and taken as part of the said Act XIII of 1856.

II. Whoever, being a member of the Police Force or being employed in any Police Office, asks for or takes any bribe or unauthorized reward, may be dismissed by order of the Commissioner, and upon conviction before a Magistrate shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six months.

III. No member of the Police Force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given

Members of Police Force not to resign without leave, or six or two months' notice.

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given to the Commissioner six months' notice of his intention if a member of the mounted branch of the said Force, and two months' notice if a member of any other branch; and every member of the said Force, who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty Rupees, or to be imprisoned with or without hard labor for any term not exceeding two months.

IV. *Clause 1.* Whenever in the Towns of Calcutta and Madras, or in any of the Stations of the Straits Settlement, any person is charged before the Magistrate with having committed any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, or with having committed within the local limits of the Supreme Court or of the Courts of Judicature of such Stations, the offence mentioned in Section V of Act XXXI of 1838, and by reason of the value of the property charged to have been stolen, embezzled, misapplied, or obtained or attempted to be obtained under false pretences, or for any other cause, the offence is not by law summarily cognizable by a single Magistrate, and some material witness is about to sail from the Port, it shall be lawful for two Magistrates, upon proof of the matters aforesaid, if they shall deem it probable (with reference to the time appointed for the departure of the ship or vessel in which such witness is about to sail) that the prosecution by indictment in the Supreme Court or in the Court of Judicature of the person so charged will be ineffectual in consequence of the absence of such material witness, to hear and determine the charge summarily under this Act, and, on conviction, to sentence the offender to imprisonment with or without hard labor for a term not exceeding twelve months, and in cases falling under the said Section XXVII, also to sentence such offender, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

*Clause 2.* In the Town of Bombay a Magistrate may commit persons charged with such offences as aforesaid for trial before the Court of Petty Sessions, and the said Court may, on conviction, sentence the offender to a like term of imprisonment or punishment.

*Clause 3.* It shall be lawful for the said two Magistrates and the said Court of Petty Sessions respectively, if they deem that the charge is from any circumstances fit to be made the

Jurisdiction of Police Magistrate in certain cases.

Similar charges at Bombay to be tried by the Petty Sessions.

Commitment to Supreme Court.

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subject of prosecution by indictment rather than to be summarily disposed of, to commit the person charged for trial before the Supreme Court or Court of Judicature.

V. Upon a conviction for any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, or under the foregoing Section of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner: and in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same a fine not exceeding the value of the said property, which the Magistrate or Court may order to be paid to the owner or his representative.

VI. Upon a conviction for any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, and in Section IV of this Act, the Magistrate or Magistrates (as the case may be,) and in Bombay the Court of Petty Sessions in cases committed to that Court, may impose upon the offender, in addition to the punishment for the offence, a fine, not exceeding the loss appearing to be caused to the persons who have suffered thereby, and may pay or distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said persons.

VII. Whoever assaults or resists, or aids or incites any person to assault or resist any Police Officer in the execution of his duty, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six months, and if the offender shall at the time of committing the offence be undergoing a former sentence of imprisonment, the imprisonment awarded under this Section shall commence and take effect from and after the expiration of such former sentence.

VIII. Whoever escapes or attempts to escape from or out of any legal custody, shall be liable to be imprisoned with or without hard labor for any term not exceeding three months; and such imprisonment shall commence and take effect from and after the expiration of any sentence of imprisonment under which such

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such person may be confined at the time of committing the offence aforesaid.

**IX.** Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or any land or ground attached thereto, not thereby causing any actual damage, or on any ground belonging to Government, or appropriated to public purposes, shall be liable to a fine not exceeding twenty Rupees.

Penalty for wilful trespass on property.

**X.** If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding fifty Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner hereinafter provided for levying fines; or may order him to be imprisoned with or without hard labor for any term not exceeding one month. Provided always that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction. Provided also that if such person offers to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate to consider any grounds of refusal stated by such wife; and he may make the order aforesaid, notwithstanding such offer aforesaid, if he shall be satisfied that such person is living in adultery or that he has habitually treated his wife with cruelty.

Magistrate may make order of maintenance for wives and children.

Proviso.

**XI.** Whoever, in the Towns of Calcutta and Madras has or keeps any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Gunja, Chandoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein

Calcutta and Madras.

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.



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therein or procured elsewhere), without a license from the Commissioner of Police; and whoever in the Town of Bombay has or keeps any such Hotel, Tavern, shop, or place, or who sells by retail in any place any spirituous or fermented liquors without such license, shall be liable to a fine not exceeding fifty Rupees for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

*Bombay.*  
Penalty for keeping such house and for retailing spirits in any place without a license.

XII. The Commissioner of Police shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said Towns, and upon such conditions, to be inserted in every such license, as he, with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year; provided always that it shall not be lawful for the said Commissioner to grant a license to open or establish, or keep open, any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chandoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be recalled. And every holder of such license may be required by the Commissioner to fix in a conspicuous part of the house or place specified in the license a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder, and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one Rupee. But such fee shall not interfere with the levy of any fee, tax, or duty on licenses to retail spirituous liquors in the Islands of Bombay and Colaba chargeable under Act V of 1842.

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

Licenses to be granted only to persons who have taken out the requisite Abkaree licenses.

Fees on licenses.

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XIII. A breach of any of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding one hundred Rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

XIV. On proof to the satisfaction of the Commissioner of Police, or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes, or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, such Commissioner or Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five Rupees for every day thereafter that the house shall be so used.

XV. When any cards, dice, gaming-table, or cloth, board, or other instruments of gaming, are found in any house, room, or place, if information has been given on oath to the Commissioner of Police that it is suspected of being used as a common gaming-house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police Officer or any of his assistants.

XVI. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge, or security for any sum of money lent or advanced to such child, or without the knowledge and consent of the owner of the article, buys from such child any article whatsoever, shall be liable to a penalty not exceeding one hundred Rupees.

XVII. Whoever, dealing in any articles by retail, has, in or about his shop or premises, or otherwise in his possession, without lawful or satisfactory excuse, any false instrument for weighing, or any false weight, or false measure of length

or

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or capacity, shall be liable to a fine not exceeding fifty Rupees, or to imprisonment with or without hard labor for a term not exceeding one month; and every such false instrument, weight, or measure shall be forfeited and destroyed.

Standards of weights and measures. Weights and measures shall be held to be false when they do not agree with standards to be kept in the Office of the Commissioner of Police, and in Bombay when they do not agree with the standards to be kept in the Offices of the Commissioner of Police and of the Clerk of the Markets.

XVIII. Any Inspector or superior Officer of Police may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measure, or instrument for weighing which he may have reason to believe is false. The power granted by this Section may, in Bombay, be exercised by the Clerk of the Markets.

Powers of Inspector &c., to enter shops to seize false weights and measures.

XIX. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the local Government, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding fifty Rupees :—

Penalty for the following offences in public streets, &c.

1. Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

Furious or negligent driving or riding.

2. Whoever drives, rides, or leads any elephant or camel without permission from the Commissioner of Police.

Driving &c., elephant or camel.

3. Whoever drives any vehicle of any description, at any time between three quarters of an hour after sun-set, and one hour before sun-rise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary.

Driving a vehicle without a sufficient light.

4. Whoever, without reasonable cause, shall drive a carriage, cart, or other vehicle otherwise than on the left or near side of the road.

Driving vehicle otherwise than on left side of the road.

5. Whoever

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5. Whoever exposes for show, hire, or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner.

Exposing for show, horses, or cleaning or repairing conveyances, or training horses in places not allowed by the Commissioner.

6. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse, or other animal.

Letting loose horses, ferocious dogs, &c.

7. Whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management, or care of such cattle, so as to cause mischief or obstruction.

Negligence in driving cattle.

8. Whoever, being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

Leaving cart, &c., without control.

9. Whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage, or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare.

Obstructing road or thoroughfare by carriage, &c.

10. Whoever leads or rides any horse or other animal, or draws or drives any cart, carriage, or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way

Obstructing foot-way.

11. Whosoever leaves any box, bale of goods, or any other thing whatsoever so as to cause obstruction in any thoroughfare.

Obstructing thoroughfare by boxes, bales of goods, &c.

12. Whoever

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12. Whoever exposes for sale, or sets out in or upon any stall, booth, show-board, cask, or basket, or otherwise, any meat, fish, vegetable, fruit, groceries, or any other thing whatsoever, so as to cause obstruction in any thoroughfare.

Exposing articles for sale so as to cause obstruction.

13. Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument, or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police.

Beating drums, tom-tom, &c.

14. Whoever sets fire to, or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire arm or air-gun, or jets off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road, or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of police.

Lighting fires and discharging guns, fire-works, &c.

15. Whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street.

Illuminations.

16. Whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall, or fence, or writes upon, defaces, or marks any such building, wall, or fence with chalk, or paint, or in any way whatsoever.

Affixing bills, or otherwise defacing houses, &c.

17. Whoever bathes or washes himself in any public street, or in, upon, or by the side of any public tank, reservoir, or aqueduct, not being a place set apart for such purpose.

Bathing, &c., in public street or aqueduct.

18. Whoever obstructs or incommodes a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle, or dogs at or near such place, or in any other way.

Obstructing persons at bathing places.

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19. Whoever uses any indecent, threatening, abusive, or insulting words, or behaves in a threatening or insulting manner, or posts up or affixes, or exhibits any indecent, threatening, abusive, or insulting printed, lithographed, or written paper or drawing, with the intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

Indecent language.

XX. The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the local Government, make and publish in the Government Gazette, rules for the blasting of rocks in or near any public road, street, thoroughfare, or place, in the Islands of Bombay and Colaba; and may give licenses for such operations when he shall think fit, and every person who shall blast any such rocks, otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this Section, shall be liable to a fine not exceeding one hundred Rupees.

Commissioner of Police in Bombay to make rules for blasting of rocks.

XXI. Whoever cruelly beats, ill-treats, abuses, or tortures, or causes or procures to be cruelly beaten, ill-treated, abused, or tortured any animal, shall, for every such offence, be liable to a fine not exceeding one hundred Rupees, and in default thereof to imprisonment with or without hard labor for a period not exceeding three months.

Cruelty to animals.

XXII. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly, or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and whoever is guilty of any violent, disorderly, or indecent behaviour in any Police Court, Office, Station, or Section House, shall be liable to a fine not exceeding twenty Rupees, or to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

Penalty for drunkenness, or riotous or indecent behaviour in public.

XXII.. No boat shall ply for passengers in the Port of Calcutta, or in any of the Ports of the said Settlement, unless duly registered at the Police Office. The following particulars shall be entered in the Register :—

In Calcutta and the Ports of the Straits Settlement, passenger boats to be registered.

*First.*—Number of the boat.

*Second.*—Name and residence of the owner, and of the manjee.

*Third.*—Number

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*Third.*—Number of the crew.

*Fourth.*—Number of persons the boat is permitted to carry.

The registration shall be in force for one year ; and every change of the owner or manjee within that time shall be therein noted.  
Registration. A fee of one Rupee shall be paid on registration.

The owner or manjee of every such registered boat shall cause to be painted on a conspicuous part of it, in the English and Vernacular languages, the registered number thereof, the number of the crew, and the number of passengers permitted to be carried.  
Name of owner or manjee, number, &c., to be painted.

The owner or manjee of a boat plying for passengers without being duly registered, or carrying more passengers, or with a less crew than is stated in the register, or not having the prescribed particulars painted on it, shall be liable to a fine not exceeding fifty Rupees.  
Penalty.

XXIV. For every summons issued by the Commissioner of Police or a Magistrate under this Act, there shall be paid a fee of eight annas, and for every subpoena so issued there shall be paid a fee of four annas. Provided that it shall be lawful for such Commissioner or Magistrate in any case to remit such fee or fees if he shall be satisfied that the party complaining is unable to pay the same, or if the complaint is made by any Police Officer in execution of his duty.  
Fees on summons and subpoena.  
Proviso.

XXV. When any Magistrate is desirous of examining any prisoner confined in a Civil or Criminal Jail or House of Correction as a witness or defendant, with respect to any charge, case, or proceeding pending before him, it shall be lawful for such Magistrate to issue an order addressed to the Keeper or Governor of the said Jail or House of Correction, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Office, for examination ; and the Keeper or Governor of the said Jail or House of Correction, on the receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.  
Power to Magistrates to order prisoners to be brought up to the Police Office.

XXVI. All

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**XXVI.** All fines and penalties imposed by a Magistrate of Police under the authority of this Act, or of any other Act heretofore passed, or which shall hereafter be passed, if no other means for enforcing the payment of such fines and penalties are or shall be provided by such Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate. When a warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and, upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magistrate, he shall, by warrant, commit the offender to jail, there to be imprisoned, with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

**XXVII.** When any person shall be served with a summons or subpoena under this Act, and shall fail to attend before the Commissioner or Magistrate issuing such summons or subpoena, according to the exigency thereof, he shall be liable to a fine not exceeding twenty Rupees for every such offence, and in default of payment to imprisonment for one week if the fine be not sooner paid.

**XXVIII.** It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police Officers, to seize all cattle or other animals found straying upon the roads, streets, or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be, from time to time, appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by

Levy of fines.

Punishment for non-attendance on summons or subpoena.

Stray animals to be impounded and sold unless redeemed within ten days.



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by the owners of the same within ten days after being so pounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound, the fee of eight annas for every goat, sheep, or hog, and one Rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee, and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner, and credited to the Police Superannuation Fund.

**XXIX. Clause 1.** All actions and prosecutions against any person, which may be lawfully brought for any thing done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint, that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

*Limitation of action.*

*Notice of action.*

**Clause 2.** The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

*Plea.*

*Tender of amends.*

*Costs.*

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# ACT NO. XLIX OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 26th December 1860.)

*An Act relating to Vessels carrying Emigrant Passengers to the British Colonies.*

WHEREAS it is expedient to permit the use at sea of the Apparatus known as Normandy's Apparatus for distilling sea water, and in consideration thereof to reduce the proportion of fresh water in tanks or casks which vessels conveying Emigrants are required to carry; It is enacted as follows :—

Preamble.

I. The Schedules of Act XV of 1842 (*for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to the Island of Mauritius*), Act XXI of 1844 (*for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to Jamaica, British Guiana, and Trinidad*), and Act XXXI of 1855 (*relating to the Emigration of Native laborers to the British Colonies of St. Lucia and Grenada*), which require that on board every ship or vessel carrying Emigrant passengers under those Acts, there shall be provided a supply of water to the amount of five gallons to every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks, shall be read subject to the following modification, namely, whenever the Officer who by law shall be required to certify compliance with the said provisions contained in the said Schedules of such Acts shall certify that such ship or vessel is provided with Normandy's Apparatus for distilling sea water, a reduction shall be allowed of one-third in the quantity of water so required to be provided.

Reduction of one-third in quantity of fresh water to be carried in Emigrant Vessels, when such Vessels are supplied with Normandy's Apparatus for distilling sea water.

II. Act

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II. Act XXI of 1843 (*for regulating the Emigration of laborers from India to Mauritius*), Act VIII of 1847 (*for rendering lawful the Emigration of laborers from the Port of Madras in the Presidency of Fort St. George to Mauritius*), and Act IV of 1852 (*to amend the law relating to Emigrant Vessels and the Emigration of laborers*) shall be taken to refer to Act XV of 1842 as herein amended; and Act XII of 1860 (*relating to the Emigration of Native laborers to the British Colony of Saint Vincent*), Act XXXIII of 1860 (*relating to Emigration to the British Colony of Natal*), and Act XLI of 1860 (*relating to the Emigration of Native laborers to the British Colony of Saint Kitts*) shall be taken to refer to Act XXXI of 1855 as herein amended.

ACT No. L OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 26th December 1860.)

*An Act to amend the Law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal.*

WHEREAS it is expedient to amend the Law relating to Vacations observed  
Preamble. in the Civil Courts within the Presidency of Fort William in Bengal; It is enacted as follows:—

I. Sections II and III of Regulation III. 1798 of the Bengal Code, Section XIII of Regulation VIII. 1805 of the same Code, and Section X of Regulation I. 1806 of the same Code,  
Laws repealed. are hereby repealed.

II. Subject to such orders as may from time to time be issued by the Governor-General of India in Council or by the local Government, the Courts of Sudder Dewanny in the Presidency aforesaid shall prepare a list of days to be observed in each year as close Holidays in such Courts and in the Courts respectively subordinate to them, and such list shall be ordinarily published at the commencement of each year in the Official Gazette of the Presidency or place in which each Sudder Court is held.  
Sudder Courts to prepare and publish an annual list of Holidays to be observed.

ACT No. LI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 26th December 1860.)

*An Act further to amend Act XXXVI of 1860.*

WHEREAS it is expedient further to amend Act XXXVI of 1860 (*to consolidate and amend the law relating to Stamp Duties*); It is enacted as follows:—

Preamble.

I. Section I Act XL of 1860 (*to amend Act XXXVI of 1860*) is hereby repealed from the 1st January 1861.

Repeal of Section I Act XL of 1860.

II. So much of Act XXXVI of 1860 as imposes duties on Foreign Bills of Exchange drawn out of the British territories in India, shall not come into force until such date as the Governor-General in Council by an order in the Gazette may prescribe. Until such date, all Regulations and Acts or parts thereof which are repealed by Section I of the said Act XXXVI of 1860, shall remain in full force as regards such Bills of Exchange as aforesaid.

Extension of time for Act XXXVI of 1860 to come into force as regards Foreign Bills of Exchange, &c., payable after date or sight.

III. This Act shall be read and construed as part of Act XXXVI of 1860.

Construction.

# ACT No. LII OF 1860.—

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor-General on the 26th December 1860.)*

## *An Act to amend Act XVIII of 1854 (relating to Railways in India.)*

WHEREAS it is expedient to amend the law relating to offences declared to be punishable under Act XVIII of 1854 (*relating to Railways in India*) on conviction before a Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay ;  
It is enacted as follows:—

I. If any person is charged before a Police Magistrate of a Presidency Town with committing any offence which under Section XXVII or Section XXVIII of Act XVIII of 1854 is punishable on conviction with imprisonment, and if such Police Magistrate shall deem it probable that, in consequence of the probable departure of any material witness from the local limits of the jurisdiction of such Magistrate, the prosecution of such offender by indictment in the Supreme Court will be ineffectual, such Magistrate may try the offender, and on conviction may award a sentence not exceeding six months imprisonment with or without hard labor.

II. The jurisdiction given to Police Magistrates under the foregoing Section may, be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not, and any person hereby made punishable by a Police Magistrate shall be punishable upon summary conviction, but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Police Magistrate before whom the offender is charged.

III. This Act shall be taken to be, and shall be read as part of Act XVIII of 1854.

# ACT No. LIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 26th December 1860.)

## *An Act to amend Act X of 1859.*

WHEREAS it is expedient to amend Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal); It is enacted as follows:—

Preamble.

I. The following proviso shall be read as part of Section XXX Act X of 1859:—“If in any suit to which this Section is applicable, the cause of action shall have accrued before the first day of August 1859, such suit shall be instituted within two years from that day, or, reckoning from the passing of this Act, within a period equal to the period of limitation for the institution of the suit that remained unexpired at the date of the passing of Act X of 1859. Provided that no such period shall extend beyond the 31st July 1861.

Time for commencement of suits of which the cause of action accrued before 1st August 1859.

II. Any suit or appeal instituted under Act X of 1859, which may have been dismissed or rejected on the ground that the suit had not been commenced within the period prescribed in Section XXX of the said Act, may be revived if the order of dismissal or rejection shall be contrary to the provisions of the foregoing Section, and a petition for the revival of the same shall be presented within four months of the passing of this Act to the Collector or Court by which such suit or appeal may have been dismissed or rejected. The petition may be written on the Stamp required for petitions presented to such Collector or Court.

Revival of certain suits and appeals dismissed or rejected.