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INDEX
TO THE
ACTS PASSED BY THE LEGISLATIVE COUNCIL OF INDIA,
IN THE YEAR 1858.

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ACT No. I OF 1858.

—oo—

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 20th January 1858.)

AN ACT to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor on certain works of irrigation in the Presidency of Fort Saint George.

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers, and canals, and of anicuts and other like works; and it is necessary for the common good to make it obligatory on persons of the laboring classes, when duly called upon, to unite their labor to prevent such breaches, or to repair them instantly: and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village communities, to furnish the labor required for the execution of certain works for the purpose of irrigation and drainage: It is enacted as follows:—

I. Whenever it shall appear to the Officer in charge of any tank, river, or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river, or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of laborers immediately working together to strengthen the embankment or other work; or when such a breach has occurred, if it shall appear to such Officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of laborers for that purpose—it shall be lawful for such Officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the laboring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach as the case may be. In the absence

Laborers may in certain cases be called upon to assist in preventing or repairing breaches in the embankments of tanks, rivers, &c.

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absence of the said Officer, it shall be lawful for the Tehsildar of the talook to make such requisition in his stead. And if neither the said Officer nor the Tehsildar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion to call upon the laborers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighboring villages to call likewise upon the laborers of their villages to co-operate in the work necessary for preventing or repairing the breach.

II. Any male person of the laboring classes being duly called upon by the head of his village to labor as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse, shall, on conviction before a Magistrate or an Officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred Rupees, or with simple imprisonment which may extend to one month, or with both.

Punishment for refusing or neglecting to comply with such call.

III. Every person who shall be employed on such work under such requisition shall be paid for his labor by day at the highest rate paid in the neighborhood for similar work, and, if he is required to work at night, at double such rate.

Rate of remuneration for laborers so employed.

IV. Payment shall be made to the laborers from the public Treasury; and if the laborers shall have been employed upon a work belonging to a private person, the amount advanced from the Treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of Land Revenue.

Mode of payment.

Recovery of advances from private persons.

V. It shall be lawful for heads of villages, on the requisition of the Officer in charge of such works as aforesaid, or in his absence on the requisition of the Tehsildar, or, in case of emergency when neither such Officer nor the Tehsildar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit trees and leaves, bamboos, straw, and the like, necessary for stopping breaches in the embankments of tanks, rivers,

Inhabitants of villages may be called upon for the supply of certain materials.

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rivers, and canals, and to seize and if necessary to cut down such articles wherever they may be found, giving receipts for them in writing; such sup-

Supplies how to be paid for.

plies shall be paid for from the public Treasury at the highest prices for which such articles are sold in the neighborhood; and in case damage is sustained by any person in consequence of the cutting down of any such articles, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under Section VI. When

Recovery of advances from private persons.

the work for which such articles are used belongs to a private person, the amount advanced from the Treasury shall be recoverable from him by the same means by which arrears of Land Revenue are recoverable.

VI. Whenever by local custom any work for the purpose of irrigation or drainage or connected therewith is usually executed by the joint labor of a village community, any person bound by such custom to contribute labor to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the Tehsildar or other superior Revenue Officer, shall be liable to pay a sum equal to twice the value of the labor which he is bound to contribute. The amount so payable shall, in case of dispute, be determined summarily by a Village or District Panchayet assembled by order of the Collector through the Village or District Moonsiff according to the rules for assembling such Panchayets prescribed in Regulations V and VII of 1816. Such amount shall be payable on demand; and, on non-payment, the same may be recovered by the same means by which arrears of Land Revenue are recoverable. All sums paid or recovered under this Section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village communities to which the defaulters respectively belong.

Liability of person bound but refusing to contribute labor to a work of irrigation or drainage usually executed by the joint labor of a village community.

ACT No. II OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 20th January 1858.)

AN ACT for the levy of Port-dues in certain Ports in the Province of Cuttack.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken, in accordance with the provisions of Act XXII of 1855, in the several Ports named in the Schedule to this Act, and in any other Port situate between the North bank of the river Soobunreekha and the South bank of the river Dhamrah in the Province of Cuttack which may hereafter be declared by the Lieutenant-Governor of Bengal to be subject to the provisions of Act XXII of 1855 and of this Act; It is enacted as follows :—

Preamble.

I. A Port-due, at a rate not exceeding the rate of six annas for every one hundred maunds of burden, shall be chargeable in respect of every sea-going vessel of the burden of three hundred maunds and upwards which shall enter any of the said Ports.

Port-due on sea-going vessels of three hundred maunds' burden and upwards entering Port.

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

No Port-due on vessels compelled by stress of weather to put back.

III. The owner or agent of any vessel belonging to any of the said Ports may compound for the dues chargeable in such Port or in any other of the said Ports, in respect of such vessel, by an annual payment equal to the amount of three times the rate fixed under Section I of this Act.

Port-dues may be compounded for.

IV. For

ACT No. II of 1858.

IV. For the purposes of Section XLIV Act XXII of 1855, the said several Ports shall be regarded as constituting a single Port. All sums received on account of Port-dues at any of the said Ports shall form a common Fund which shall be called the Balasore Port Fund, and shall be available for the payment of all charges incurred on account of any of the said Ports.

V. This Act shall have effect from and after the first day of May 1858 ; and until this Act comes into effect, Port-dues may continue to be levied at the said Ports under the rules and at the rates now in force.

VI. The local Government shall, on or before the first day of May 1858, pursuant to Section XLII Act XXII of 1855, declare, by notification to be published in the *Calcutta Gazette*, the rate at which a Port-due shall be levied in the said Ports 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 any of the said Ports, except under the authority of Act XXII of 1855, and of this Act.

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

SCHEDULE.

Ports.

Balasore.
Chooramun.
Lychunpore.
Chanooa.
Sartha.
Soobunreekha.
Dhamrah.



ACT No. III OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 23rd January 1858.)

AN ACT to amend the Law relating to the arrest and detention of State Prisoners.

Preamble. WHEREAS doubts have been entertained whether State Prisoners confined under Regulation II. 1819 of the Madras Code, or Regulation XXV. 1827 of the Bombay Code, can be lawfully detained in any fortress, jail, or other place within the local limits of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed, and that the powers of the said Regulations and of Regulation III. 1818 of the Bengal Code be extended; It is enacted as follows:—

I. So much of Clause 1 Section I of Regulation XXV. 1827 of the Bombay Code as provides—that, with reference to the individual, the apprehension and confinement therein referred to shall not be in breach of British Law—is repealed; except so far as the said provision applies to European British Subjects.

II. The provisions of Regulation III. 1818 of the Bengal Code, Regulation II. 1819 of the Madras Code, and Regulation XXV. 1827 of the Bombay Code as altered by Section I of this Act, relating to the arrest and confinement of persons as State Prisoners, shall be in force within the local limits of the jurisdiction of the Supreme Courts of Judicature at Calcutta, Madras, and Bombay respectively.

III. All

ACT No. III of 1858.

III. All powers for the better custody of State Prisoners which by virtue of Act XXXIV of 1850 are vested in the Governor General in Council, shall be possessed and may be exercised by the Governor in Council of Fort St. George and the Governor in Council of Bombay respectively for the better custody of State Prisoners arrested within their respective Presidencies.

Powers for the better custody of State Prisoners, vested by Act XXXIV of 1850 in the Governor General in Council, may be exercised by the Governors in Council of Fort St. George and Bombay respectively.

IV. Any person arrested as a State Prisoner before the passing of this Act or now confined as a State Prisoner by the order or under the warrant of the Governor General in Council, or of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, shall be deemed to have been lawfully arrested and to be lawfully confined.

Arrests &c. made before the passing of this Act legalized.

V. The Governor General in Council may order the removal of any State Prisoner, confined under the provisions of any of the said Regulations as amended and extended by this Act, from any fortress, jail, or place in which he may be confined within either of the said Presidencies, to any other fortress, jail, or place of confinement within the territories in the possession and under the Government of the East India Company.

Removal of State Prisoners from one place of confinement to another.



ACT No. IV OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 28th January 1858.)

AN ACT for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

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 the Council of India; It is enacted as follows:—

Preamble.

I. During the absence of the Governor General from the Council of India, 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 to be exercised by the Governor General during his absence from the Council of India.

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.

Powers of the President in Council.

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 six months.

Commencement and duration of Act.

ACT No. V OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 29th January 1858.)

AN ACT for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders.

WHEREAS, during the recent disturbances in the North-Western Provinces and other parts of India, many Jails were broken open and the prisoners who were then detained therein were forcibly released, and many of such prisoners are now at large; and it is expedient to provide for the apprehension of certain of such offenders: and whereas it is also expedient to make better provision for the punishment of persons convicted of or charged with the commission of heinous offences, who shall hereafter escape from Jail; It is enacted as follows:—

Preamble.

I. Every person who since the 1st of May 1857 hath escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned, and who being at large shall not within one month from the passing of this Act surrender himself to a Magistrate or Police Officer, and make true answer to all such questions as shall be put to him by a Magistrate touching the Jail or other custody from which he escaped and the cause for which he was there detained; and every person who shall hereafter escape from Jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned—shall upon conviction be sentenced to transportation for life.

Punishment of offenders who, having escaped from Jail, shall not surrender themselves within one month from the passing of this Act.

Punishment of offenders who may hereafter escape from Jail.

II. Every

ACT No. V of 1858.

II. Every person who since the said 1st day of May 1857 hath escaped

Punishment of persons who, having escaped from custody whilst detained under committal for trial for certain crimes, shall not surrender themselves within one month from the passing of this Act.

from Jail or lawful custody whilst detained under a committal for trial for any of the crimes hereinafter mentioned or under a charge of being guilty of such crime, and who shall not within one month after the passing of this Act surrender himself to a Magistrate or Police Officer, and make true answer to all such questions as shall be put to him by a Magistrate touching the Jail or other custody from which he escaped and the nature of the charge upon which he was detained; and every person who shall hereafter escape from Jail or other lawful custody whilst detained under such committal for trial or upon such charge as aforesaid—shall, upon conviction of the crime for which he was so committed for trial or in respect of which he was so charged, if not sentenced to the punishment of death, be liable to be transported for life.

Punishment of persons who may hereafter escape from custody while under committal for trial.

III. The following are the crimes referred to in Sections I and II,

Enumeration of crimes referred to in the preceding Sections.

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, and all crimes against person or property attended with great personal violence.

IV. Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict or other person

Punishment for knowingly harbouring or concealing offenders.

who shall have escaped as aforesaid, shall be liable to imprisonment with or without hard labor for any term not exceeding seven years, and shall also be liable to fine.

V. All proprietors of lands, and all farmers, agents, and other persons

Liability of landholders to give early intelligence of the resort of escaped prisoners to their estates.

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 or prisoner 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,

ACT No. V of 1858.

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.

VI. 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.

VII. Offences under this Act, other than those provided for by Section V of this Act, may be tried by a Sessions Judge, or by a Special Commissioner appointed under Act XIV of 1857; 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.



ACT No. VI of 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 29th January 1858.)

AN ACT to authorize the impressment of artisans and laborers for the erection of Buildings for the European Troops in India, and for works urgently required for Military purposes.

WHEREAS, in consequence of the necessity which exists of completing without delay sufficient Buildings for the accommodation of the European Troops in India, and of the difficulty of procuring without compulsion a sufficient number of artisans and laborers for that purpose, it is expedient to authorize as a temporary measure the impressment of such artisans and laborers as may be necessary; and whereas it may be necessary to impress artisans and laborers for the performance of works urgently required for Military purposes or for the defence of public property; It is enacted as follows:—

Preamble.

I. In any District or place to which the provisions of this Act shall be extended by order of the Governor General in Council or of the Executive Government of any Presidency or place, it shall be lawful for any Officer or Officers, authorized in that behalf by the Governor General in Council or by such Executive Government as aforesaid, to impress any native artisans and laborers who, in the judgment of such Officer or Officers, may be necessary for the erection, completion, alteration, or repair of any Building required for the accommodation of European Troops, or for the collection, preparation, or manufacture of materials for that purpose, or for any other work connected with the erection, completion, alteration, or repair of such Building; and also to impress such boats, carts, bullocks, or other animals as may be necessary in that behalf: and any such artisan or laborer, boat, cart, bullock, or other animal may be so impressed, whether such artisan or laborer shall be under a contract to work for, or such boat, cart, bullock, or other animal shall have been previously let to hire to, any private person or not.

Government may authorize Officers to impress native artisans &c. in Districts or places to which this Act may be extended.

II. No

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occasioned by such impressment, shall be entitled to the same payment or compensation, to be settled or ascertained in the same manner, as if this Act had been in force at the time of such impressment.

Act to apply to performance of works urgently required for Military purposes &c.

XI. The provisions of this Act shall extend to any works urgently required for Military purposes or for the defence of public property.

XII. The word "Magistrate" shall include every person exercising the full powers of a Magistrate, and every person authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

XIII. This Act shall not authorize any impressment to be made after the expiration of six months from the passing of this Act.

Duration of Act.



ACT No. VII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 1st March 1858.)

AN ACT for the levy of *Port-dues and fees at Ports within the Presidency of Fort Saint George.*

WHEREAS it is necessary to fix the amount of the Port-dues and fees to be hereafter levied and taken, in accordance with the provisions of Act XXII of 1855, in the several Ports named in the Schedule to this Act, being Ports within the Presidency of Fort Saint George; It is enacted as follows :—

Preamble.

I. Port-dues, at rates not exceeding the rates contained in the Schedule to this Act, shall be chargeable in respect of every sea-going vessel of the burden of twenty tons and upwards, other than Dhonies and Country vessels, entering Port. Port-dues shall be chargeable in respect of Dhonies and Country vessels employed in the coasting trade, at rates equal to one-half the rates chargeable in respect of other vessels.

Port-dues on sea-going vessels of 20 tons and upwards, other than Dhonies and Country vessels, entering Port.

Port-dues on Dhonies and Country vessels.

Port-dues to be chargeable only once in sixty days in respect of the same vessel.

II. Provided that no such dues as aforesaid shall be chargeable at any of the said Ports oftener than once in sixty days in respect of the same vessel.

III. Vessels entering any of the said Ports, and leaving such Port within seven days without discharging or taking in any cargo or passenger therein, shall be charged with one-half only of the Port-due which would otherwise be chargeable.

Port-due on vessels leaving Port within seven days without discharging or taking in cargo.

IV. Vessels

ACT No. VII of 1858.

IV. Vessels entering any of the said Ports in ballast shall be charged with three-fourths only of the Port-due on vessels entering Port in ballast. due which would otherwise be chargeable.

V. In any of the said Ports, a fee according to the scale hereinafter mentioned may be charged for measuring any vessel Scale of fees for measuring vessels. (that is to say)—

Under 50 tons	Rs.	7
50 tons and under 100 tons	"	11
100 tons and under 150 tons	"	15
150 tons and under 200 tons	"	19
200 tons and under 250 tons	"	23
250 tons and under 300 tons	"	27
300 tons and upwards	"	30

VI. This Act shall commence and have effect from and after the Commencement of Act. first day of May 1858; and until this Act comes into effect, Port-dues and fees may continue to be levied at the said Ports under the rules and at the rates now in force.

VII. The local Government shall on or before the first day of May 1858, pursuant to Section XLII Act XXII of 1855, declare, by notification to be published in the *Fort Saint George Gazette*, the rates at which Port-dues and fees shall be levied in the said Ports subject to the provisions of and within the limits prescribed by this Act; and from and after the said date, no Port Rates of Port-dues and fees to be published. due or fee shall be levied at any of the said Ports, except under the authority of Act XXII of 1855 and of this Act. No other Port-dues or fees to be levied.

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

SCHEDULE.

<i>Ports.</i>	<i>Maximum Rate.</i>
Madras ... 3 Annas for every ton of burden.	
Tutacorin ... 3 " ditto ditto.	
Cocanada ... 3 " ditto ditto.	

Cochin

ACT No. VII OF 1858.

SCHEDULE—(Continued).

<i>Ports.</i>	<i>Maximum Rate.</i>			
Cochin	...	2	Annas for every ton of burden.	
Bimlipatam	...	1	„ ditto	ditto.
Vizagapatam	...	1	„ ditto	ditto.
Masulipatam	...	1	„ ditto	ditto.
Cuddalore	...	1	„ ditto	ditto.
Tranquebar	...	1	„ ditto	ditto.
Negapatam	...	1	„ ditto	ditto.
Calicut	...	1	„ ditto	ditto.
Tellicherry	...	1	„ ditto	ditto.
Cannanore	...	1	„ ditto	ditto.
Mangalore	...	1	„ ditto	ditto.



ACT No. VIII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 12th March 1858.)

AN ACT for the levy of Port-dues and fees in the Port of Kurrachee.

WHEREAS it is necessary to fix the amount of the Port-dues and fees to be hereafter levied and taken in the Port of Kurrachee, 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 for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards (except fishing boats) which shall enter the said Port.

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

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

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

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in three calendar months in respect of the same vessel.

Port-dues to be chargeable only once in three months in respect of the same vessel.

IV. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Vessels entering the Port in ballast.

V. Tug Steamers and River Steamers, belonging to the said Port, shall be liable to the Port-due specified in Section I of this Act; and the said due shall be chargeable in respect of every such Steamer once between the 1st day of January and the 30th

Port-due on Steamers.

ACT No. VIII OF 1858.

30th day of June, and once between the 1st day of July and the 31st day of December in each year. The provisions of Section XLVI Act XXII of 1855 shall not be applicable to such Steamers.

Fees for certain services. VI. Within the said Port, fees may be charged for the following services at rates not exceeding those hereinafter specified, namely,

Removing from one part of the Port to another	Rs. 25
Removing from one mooring to another at the request of the agent or master	50
Hooking	16
Measuring	30

Commencement of Act. VII. This Act shall have effect from and after the first day of May 1858; and until this Act comes into effect, Port-dues and fees may continue to be levied at the said Port under the rules and at the rates now in force.

Rates of Port-dues and fees to be published. VIII. The local Government shall, on or before the first day of May 1858, pursuant to Section XLII Act XXII of 1855, declare, by notification to be published in the *Bombay Gazette*, the rates at which Port-dues and fees shall be levied at 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 or fee shall be levied at the said Port, except under the authority of Act XXII of 1855 and of this Act.

No other Port-dues or fees to be levied.

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



ACT No. IX OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 19th March 1858.)

AN ACT for the levy of Port-dues in certain Ports within the limits of the Gulf of Cambay.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken, in accordance with the provisions of Act XXII of 1855, in the Ports named in the Schedule to this Act, being Ports within the limits of the Gulf of Cambay; It is enacted as follows:—

Preamble.

I. Port-dues, at a rate not exceeding the rate of two annas for 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 any of the said Ports.

Port-dues on sea-going vessels of ten tons and upwards entering Port.

II. When any vessel enters any of the said Ports, 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 unshipment and reshipment 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 any of the said Ports is compelled to re-enter such Port, or to enter any other of the said Ports, 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 put back.

No vessel to pay Port-due at same Port oftener than once a month.

IV. No vessel shall be required to pay at the same Port any Port-due chargeable under this Act oftener than once in the same calendar month.

V. For

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V. For the purposes of Section XLIV Act XXII of 1855, the said several Ports shall be regarded as constituting a single Port. All sums received on account of Port-dues at any of the said Ports shall form a common Fund, which shall be called the Cambay Ports Fund, and shall be available for the payment of all such expenses as are described in the said Section, incurred on account of any of the said Ports, and for the construction and maintenance of Light-Houses within the limits of the Gulf of Cambay.

VI. This Act shall commence and have effect from and after the 1st day of May 1858; and until this Act comes into effect, Port-dues may continue to be levied at the said Ports under the rules and at the rates now in force.

VII. The local Government shall, on or before the 1st day of May 1858, pursuant to Section XLII Act XXII of 1855, declare, by notification to be published in the *Bombay Gazette*, the rate at which Port-dues shall be levied in the said Ports 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 any of the said Ports, except under the authority of Act XXII of 1855 and of this Act.

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

SCHEDULE.

Surat.	Oomersaree.
Bulsar.	Bhugwa.
Gogo.	Dehj.
Bowlearee.	Dehgaum.
Kitroon.	Tunkaria.
Koluck.	Broach.



ACT No. X OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA,

(Received the assent of the Governor General on the 19th March 1858.)

AN ACT to authorize the confiscation of Villages, the imposition of fines, and the forfeiture of certain offices in cases of rebellion and other crimes committed by Inhabitants of Villages or by members of tribes, and also to provide for the punishment of proprietors of land who neglect to assist in the suppression of rebellion or in the apprehension of rebels, mutineers, or deserters.

WHEREAS it is expedient to authorize the confiscation of Villages, the imposition of fines, and the forfeiture of certain offices in cases of rebellion and other crimes committed by Inhabitants of Villages or by members of tribes; and also to provide for the punishment of proprietors of land who neglect to assist in the suppression of rebellion or in the apprehension of rebels, mutineers, and deserters; It is enacted as follows:—

I. If it shall be proved to the satisfaction of a Magistrate that the Inhabitants of any Village within his jurisdiction, or any large number of the Inhabitants of such Village, have since the 1st day of May 1857 been guilty of rebellion, or of waging war against the State, or of murder, or of any of the offences specified in Section II Act XVI of 1857, although the individual offenders cannot be identified; or if it shall be proved to the satisfaction of a Magistrate that any European or American has been murdered or been subjected to any violent personal outrage in any such village, and it shall not be proved to the satisfaction of the Magistrate that the Inhabitants of such Village used all the means in their power to prevent the commission of the offence; it shall be lawful for the Magistrate to impose a fine upon the Inhabitants of such Village, or upon any specified class of the Inhabitants of such Village; the amount of the fine to be fixed with reference to the means of the Inhabitants or class of Inhabitants, and the nature of the offence committed. If the owner or owners of the Village shall not prove to the satisfaction of the Magistrate that he or they used all

Fines imposed on Villagers in certain cases.

Confiscation of Villages.

the

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the means in his or their power to prevent the commission of the offence, the Magistrate may confiscate the Village, either in lieu of, or in addition to, the imposition of such fine upon the Inhabitants. In like manner, if any hereditary Village Officer, employed in the collection of the Land Revenue or in the Police in such Village, shall not prove to the satisfaction of a Magistrate that he used all the means in his power to prevent the commission of the offence, the Magistrate may declare the hereditary office to be forfeited, and may confiscate any land or rights held by him in virtue of such office.

II. If it shall be proved to the satisfaction of a Magistrate that any members of a particular tribe have since the said 1st day of May 1857 been guilty of any of the above-mentioned offences within the limits of his jurisdiction, although the individual offenders cannot be identified, it shall be lawful for the Magistrate to impose a fine upon all the members of the tribe residing at or near the place where the offence was committed or from which the offenders came.

III. It shall also be lawful for a Magistrate to impose a fine upon the Inhabitants of any Village within his jurisdiction, if it shall be proved to his satisfaction that, at any time after the passing of this Act, any rebel, mutineer, or deserter, or any person proclaimed by Government as a rebel, or for whose apprehension a reward shall have been publicly offered, or any person who shall have escaped from jail or other custody whilst under sentence of imprisonment or under trial for any offence mentioned in Section III Act V of 1858 (*for the punishment of certain offenders who have escaped from jail and of persons who shall knowingly harbour such offenders*), has been knowingly harboured or concealed within such Village; or that any arms or other property belonging to the East India Company have been knowingly concealed therein.

IV. The Magistrate may exempt from liability to pay any portion of a fine imposed under the provisions of this Act, any person whom he shall consider entitled to such exemption in consequence of his having delivered up or given such information as shall have led or shall be calculated to lead to the apprehension and conviction of any rebel, mutineer, or deserter, or other person guilty

of

ACT No. X OF 1858.

of any of the offences mentioned in Section I. of this Act, or to the recovery of any arms or property belonging to the East India Company, or for any other reason which the Magistrate may deem sufficient.

V. If any Zemindar or other proprietor of land, when duly called upon by the Magistrate or by a Darogah or District Police Officer, to render assistance in the suppression of rebellion or the arrest of rebels, mutineers, or deserters, shall refuse or neglect to use all the means in his power for rendering such assistance, the Magistrate, on proof of such refusal or neglect, may impose a fine on the person so offending, or may confiscate his estate or interest in the land.

Proprietors of land refusing or neglecting to aid in the suppression of rebellion, &c.

VI. Whenever a Magistrate shall order the confiscation of a Village, or of any land or rights, or of any estate or interest in land, or the imposition of a fine under this Act, he shall report his proceedings to the Commissioner. The Commissioner may either confirm or modify or annul the order of the Magistrate as he may think fit: provided that he shall not make any order which the Magistrate could not have made.

Magistrate to report his proceedings to the Commissioner for confirmation or modification.

VII. When any fine is imposed under this Act upon the Inhabitants of a Village or members of a tribe, the amount shall be assessed upon the Inhabitants of the Village or members of the tribe (as the case may be) by a punchayet appointed by the Magistrate, or in such other mode as the Magistrate may direct; and the assessment, when approved by the Magistrate, shall be final. Notice of the assessment, and of the time fixed by the Magistrate for the payment thereof, shall be given by affixing the same in some conspicuous place in the Village to which the order relates or where the persons liable to the fine reside.

Assessment of fines upon Inhabitants of Villages or upon members of tribes.

VIII. If the full amount assessed be not paid within the time fixed by the Magistrate, which shall not be less than thirty days from the date of the assessment, the amounts assessed may be levied by order of the Magistrate by distress and sale of the moveable property of the parties liable for the same; and in case no sufficient moveable property shall be found within the Village, any house or immoveable property and any rent-free or other saleable

Recovery of amounts assessed by sale of the property, moveable and immoveable, of defaulters.

ACT No. X of 1858.

saleable tenure belonging to the defaulter may be sold by order of the Magistrate for the purpose of realizing the amount due from him. In the

Or by sale of the Village. case of a fine imposed on the Inhabitants of a Village, the Magistrate may direct the Collector to sell the Village for

the amount of the assessment remaining unpaid, unless the owner or owners of the Village shall pay such amount. The sale shall be subject to all the rules applicable to sales for the recovery of arrears of Revenue, save that it shall not in any case be necessary to obtain the sanction of the Sudder Board of Revenue or Board of Revenue to such sale. In the event of such sale

Owner of Village may recover arrears of assessment paid by him. taking place, or of the owner or owners making good the arrears of assessment to save the Village from sale, he or they may recover the arrears from the parties liable for the same in the same manner in which arrears of Rent may be recovered.

Provido. Provided that, if the sum realized by the sale fall short of the arrears due, the owner or owners of the Village shall not recover more than the amount realized by the sale.

IX. Any confiscation of a Village under Section I of this Act shall have the effect of cancelling all under-tenures in the Village ; and shall authorize the ejectment of all tenants or cultivators of land therein ; and shall also have the effect of avoiding all incumbrances of the whole or any part of the Village which shall have been created after the date of the commission of the offence mentioned in the Magistrate's order, and all incumbrances created before the date of the commission of the offence if the incumbrancer shall have been in possession at the time, and also all incumbrances made after the passing of this Act unless the same shall have been made and registered three months before the commission of the offence or the day specified in the Magistrate's order as the date of the commission of the offence : and every sale of a Village under this Act shall have the same effect as a confiscation, except that it shall cancel such under-tenures only as belong to persons who have made default in payment of the amount assessed upon them.

X. All the provisions of this Act, which authorize the imposition and assessment of a fine upon the Inhabitants of a Village, shall extend to the Inhabitants of any Mohulla or Division of a City or Town ; and the amount of any fine imposed under this Section, if not paid, shall be levied by order of the Magistrate by distress and sale of the moveable

Act to extend to authorize the imposition and assessment of a fine on Inhabitants of Divisions of Cities or Towns.

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able property of the parties liable for the same; and in case no sufficient moveable property shall be found within the Mohulla or Division, any house or immoveable property and any rent-free or other saleable tenure belonging to the defaulter may be sold by order of the Magistrate for the purpose of realizing the amount.

XI. Any fine imposed under Section V of this Act may be recovered in the manner above prescribed for the recovery of assessments, or by sale of the estate of the person liable to the fine; and such sale shall be made by the Collector on the requisition of the Magistrate, and shall be subject to all the rules applicable to the sale of estates for demands recoverable by the same process as arrears of Revenue, save that it shall not in any case be necessary to obtain the sanction of the Sudder Board of Revenue or Board of Revenue to such sale.

Recovery of fines imposed on proprietors of land under Section V.

XII. No appeal shall lie from any order passed by a Magistrate in carrying out the provisions of this Act; but, except as otherwise provided, all orders and proceedings of the Magistrate shall be subject to the revision and control of the Commissioner, whose order shall be final.

No appeal; order of Magistrate may be revised by the Commissioner.

XIII. If the Governor General in Council, or the Executive Government shall see fit to remit any confiscation under this Act, all persons affected by such confiscation shall be restored to their rights as if no such confiscation had ever taken place.

Effect of remission of confiscation.

XIV. No action or other proceeding shall be commenced or prosecuted against any person for any thing done under the authority of this Act.

Indemnity.

XV. This Act shall take effect only in those Districts or places to which it shall be extended by order of the Governor General in Council or of the Executive Government of any Presidency or place. In the event of this Act being extended to any Districts or places subject to the Presidency of Fort St. George or to the Presidency of Bombay, the powers vested by this Act in the Commissioner shall be exercised by such Officer or Officers as the Executive

Act to take effect only in Districts or places to which it is extended by order of Government.

Powers vested in Commissioner to be exercised in the Madras and Bombay Presidencies by Officers appointed by Government.

cutive

ACT No. X OF 1858

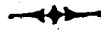
cutive Government may appoint ; and all reports required to be made to the Commissioner shall be made to such Officer or Officers.

XVI. The word "Magistrate" shall include every person authorized
Interpretation. by the Executive Government to exercise the powers
"Magistrate." vested in a Magistrate by this Act; and the word
"European." "European" shall include any person usually designated
a European British subject.

Duration of Act. XVII. This Act shall continue in force for two years.



ACT No. XI OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 4th April 1858.)

AN ACT to authorize the infliction of corporal punishment in certain cases.

Preamble. WHEREAS, in consequence of the destruction of the Jails in many parts of India, and the want under existing circumstances of means for the confinement of Convicts and for the due enforcement of prison-discipline, it is expedient to authorize the substitution of corporal punishment for imprisonment in certain cases; It is enacted as follows:—

I. If any person shall be charged before a Magistrate with having committed any of the offences hereinafter mentioned, it shall be lawful for such Magistrate, in lieu of committing the offender for trial, or sentencing him to any other punishment to which he may be liable, to sentence the offender upon conviction to corporal punishment not exceeding thirty stripes with a ratan. The offences are—robbery not attended with aggravating circumstances, burglary, theft, knowingly receiving stolen or plundered property, wilful destruction of or injury to property, and the attempt to commit any of the above-mentioned offences.

Magistrate empowered to sentence offenders to corporal punishment for certain offences.

II. It shall also be competent to a Magistrate to impose a fine not exceeding five hundred Rupees on conviction for any offence under Section XXV Act XXVIII of 1857; and in such case, as well as in any case in which a fine shall be imposed under the provisions of Section VIII Act XI of 1857, or of Section XVI, Section XXII, or Section XXVII Act XXVIII of 1857, or for assaults or affrays, it shall be lawful for the Magistrate to order that corporal punishment, not exceeding thirty stripes with a ratan, shall be inflicted on the offender in lieu of the fine, in case such fine be not paid

Corporal punishment may be inflicted also in certain cases in which a fine is imposed and not paid.

ACT No. XI OF 1858.

paid. In any case in which the Magistrate shall make such order, he shall not sentence the offender to imprisonment in addition to the fine.

Act not to authorize the corporal punishment of Europeans and others.

III. Nothing in this Act shall be deemed to authorize the infliction of corporal punishment upon any European or American or upon any female.

IV. The word "Magistrate" shall include any person lawfully exercising the full powers of a Magistrate, and also any Assistant to a Magistrate or Deputy Magistrate specially authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act; and the word "European" shall include any person usually designated a European British subject.

Interpretation.
"Magistrate."
"European."

Act to take effect only in Districts or places to which it is extended by Government.

V. This Act shall take effect only in the Districts or places to which the Governor General in Council or the Executive Government of any Presidency or place shall think it necessary to extend it.

Duration of Act.

VI. This Act shall continue in force for two years.



ACT No. XII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 4th April 1858.)

AN ACT for raising funds for making and repairing roads in the Suburbs of Calcutta and the Station of Howrah.

WHEREAS considerable sums are expended annually by Government for making and repairing roads in the suburbs of Calcutta and the station of Howrah: and whereas it is just and expedient that such expenses, or a reasonable proportion thereof, should be defrayed by the inhabitants of the said suburbs and station in the same manner as the expense of making and repairing roads in the town of Calcutta is defrayed by the inhabitants of the said Town: and whereas a tax has been imposed upon carriages and horses kept within the said Town; and it is expedient that a similar tax should be imposed upon carriages and horses kept within the said suburbs and station: It is enacted as follows:—

I. The sums required for making and repairing roads within the limits of the said suburbs and station, except as hereinafter otherwise provided, shall be contributed by the inhabitants of the said suburbs and station and shall be recovered in the manner hereinafter provided.

Expense of making roads to be defrayed by inhabitants.

II. A tax shall be imposed upon all carriages, horses, ponies, and mules kept within the limits of the said suburbs and station, as those limits are defined in Act XXI of 1857, at the rates specified in the annexed Schedule; and shall be payable quarterly by the owners or persons having charge of the same.

A tax to be imposed on carriages, horses, &c.

Exemptions.

III. Provided that the carriages and animals hereinafter mentioned shall be exempt from the tax, namely,

Gun carriages, and ordnance carts and waggons.

Cavalry horses, and horses of mounted Police.

Horses

ACT No. XII OF 1858.

Horses belonging to Officers doing regimental duty at the Presidency or in the said suburbs or station, at the rate of one horse for each Officer.

Carriages and animals kept for sale and not used for any other purpose, if kept by *bona-fide* dealers in such carriages or animals.

Lieutenant Governor may appoint Collector of tax.

the said station.

IV. The Lieutenant Governor of Bengal may appoint such person as he shall deem fit to be Collector of the carriage and horse-tax in the said suburbs and in

Ownership for any number of days in a quarter constitutes liability to the tax for a whole quarter.

V. Every person, who may have owned or had charge of any carriage or animal kept within the said suburbs or station for any number of days in any quarter, shall be liable to the whole tax for that quarter.

Exemption of carriages under repair.

quarter.

VI. If a carriage shall have been under repair at a carriage-maker's for the whole period contained in any quarter, no tax shall be leviable in respect of such carriage for that

Collector may compound with livery stable-keepers.

kept by such persons, in lieu of the rates specified in the Schedule.

VII. The Collector, at his discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so

Carriages and horses let for hire to residents in the suburbs liable to the tax.

station, shall be subject to the tax; and the sums to be charged for such carriages and horses shall be recoverable from the persons in whose premises they are for the time being kept.

Registry and numbering of carriages for hire.

IX. Every carriage of the description rated in the Schedule at one Rupee and eight annas, kept within the said suburbs or station and let out for hire, shall be registered in the Office of the Collector, and shall bear, in such manner as

the

ACT No. XII of 1858.

the Collector shall direct, the number of such registration. The registration shall be made and the number assigned annually upon such day in each year as the Collector shall appoint. Any person becoming possessed, within the year, of any such carriage which has not been registered, may obtain registration on application to the Collector at his Office. When any registered carriage is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

X. Whoever keeps any such carriage, required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding ten Rupees, and the Collector or any Officer duly authorized by him may seize or cause to be seized any such carriage (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the horses or other animals drawing the same, and may deliver them over to the Police; and all Police Officers are hereby required, on the application of the Collector or his Officer as aforesaid, to seize and detain the same. If the carriage as aforesaid be not claimed or if the fine be not paid within ten days, such carriage, together with the animals seized with it, may be sold by auction by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale, and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Collector.

XI. The Collector shall from time to time cause to be prepared and entered in distinct columns in a book to be kept at his Office and to be open to the inspection of any person interested therein, a list of the persons liable to the payment of the tax, a description of the carriages and animals in respect of which they are liable, and the amount of the tax assessed thereon.

XII. In order to enable the Collector to make such list, the Collector or any Officer authorized by him may send to all persons supposed to be liable to the payment of the tax, a Schedule to be filled up with such information respecting the carriages

Returns may be required for purpose of making list.

ACT No. XII of 1858.

carriages and animals kept by them as the Collector may judge necessary for the assessment of the tax. The Schedule shall be filled up in writing, and signed and dated, and returned to the Office of the Collector by every person to whom it is sent, whether or not liable to the payment of the tax; and whoever refuses, neglects, or omits duly to fill up and return such Schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

XIII. The Magistrate on the report of the Collector may, if he think proper, summon any person supposed to be liable to the payment of the tax, or any servant of such person, to appear before the Collector: and the Collector may examine such person or his servant as to the number and description of the carriages and horses in respect of which such person is liable to be assessed. If the person summoned shall, without lawful excuse, fail to appear in pursuance of the summons, or shall refuse to answer any lawful question of the Collector, or knowingly give an incorrect answer, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

XIV. Any person who may dispute his liability for any assessment made under the foregoing provisions of this Act or the amount of any such assessment, may appeal to the Magistrate. Provided that such appeal shall be commenced within ten days after the receipt by such person of a bill for the sum claimed from him in respect of such assessment.

XV. The decision of the Magistrate upon every such appeal shall be final and conclusive; and no person shall be entitled to contest any assessment made under the foregoing provisions of this Act, in any other manner than by appeal to the Magistrate as hereinbefore provided.

XVI. When any sum is due on account of the said tax, the Collector shall cause to be presented to the person liable to the payment thereof a bill for the amount, which shall also contain a statement of the period and a description of the carriages and animals

ACT No. XII of 1858.

mals for which the charge is made, together with a notice of the time within which an appeal may be preferred.

XVII. If the bill is not paid by the person liable to pay the same within five days from the presentation thereof, the Collector may cause to be served upon such person a notice of demand in the form (A) contained in the Schedule to this Act, or to the like effect; and if such person shall not, within five days from the service of such notice of demand, pay the sum due or show sufficient cause for non-payment of the same to the satisfaction of the Collector, and if no appeal shall have been preferred, such sum with all costs may be levied by distress and sale of the goods and chattels of the defaulter under a warrant in the form (B) in the Schedule, or to the like effect, to be issued for that purpose by the Collector.

XVIII. The Officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing in the form (C) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

XIX. If the arrear is not paid with costs, or the warrant is not discharged or suspended by the Collector, the goods and chattels seized shall be sold under the orders of the Collector, who shall apply the proceeds or such part thereof as may be necessary in discharge of the said arrears and costs; and the surplus (if any) shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The fees payable upon distraints under this Act shall be such as are set forth in the Table of Fees (D) in the said Schedule.

XX. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or part of any sum due in respect of the tax, the Collector may sue the person liable for the same in any Court of competent jurisdiction.

XXI. Previously

ACT No. XII of 1858.

XXI. Previously to the first day of May of each year, an estimate shall be prepared of the amount required during the year for the purpose of making and repairing roads in the said suburbs and in the said station respectively; and such estimate, when sanctioned by the Lieutenant Governor of Bengal, shall be published in the Official Gazette for general information. The Governor General of India in Council, on the report of the Lieutenant Governor, shall determine whether any and (if any) what proportion of the said estimate shall be paid out of the public Revenues. If, after deducting such

Estimate of probable expense of making and repairing roads, to be prepared annually, and published.

If estimate of expense exceed estimated produce of carriage and horse-tax, excess how to be levied.

proportion (if any), the said estimate shall exceed the sum which the carriage and horse-tax is estimated to produce, with the addition of such further sums as may be assigned by the Lieutenant Governor for the said purpose out of the Ferry Fund, or any other public fund, such excess shall be added to the amount of the assessment or rate to be levied in the said suburbs and in the said station under Act XX of 1856, and such additional assessment or rate shall be made and recovered according to the provisions of that Act.

Provided that the amount levied by an assessment or rate under this Section shall not in any case exceed a sum equal to one-half of the amount levied under the said Act XX of 1856 for the purposes of that Act.

Proviso.

XXII. The proceeds of any assessment or rate made as aforesaid shall be kept distinct from the proceeds of the assessment or rate made for the purposes of the said Act XX of 1856; and such proceeds, together with all sums received by the Collector of the carriage and horse-tax, and all sums assigned by Government as above provided, and all fines and penalties levied under this Act, shall form a Fund which shall be called in the suburbs of Calcutta "The Suburban Roads Fund," and in the station of Howrah "The Station Roads Fund."

Collections and fines to be paid to Roads Fund.

Appropriation of Fund.

All expenses incurred for the purpose of this Act shall be defrayed from the said Fund, and the residue shall be applied exclusively to making, repairing, and improving roads within the limits of the said suburbs and station. Provided that no payment shall be made from the said Fund for the repair of such roads or parts of roads as are hereinafter described, namely

No payment to be made out of the fund for the repair of certain roads.

In the said Suburbs—

The Barrackpore road with the Lock-gate road.

The

ACT No. XII of 1858.

The road from the Cossipore gun-foundry to Dum-Dum.

The Belgatchya or Dum-Dum road.

The Behalea or Diamond Harbour road, southward from the cross road to Allipore and Tollygunge.

The Budge-Budge road.

The Gurraahath or Culpee road from the end of Old Ballygunge road.

The Canal roads, and the roads leading from the Canals and Salt-water lake into the Town, namely, the Balliaghutta, Narkooldangah, Manicktollah, Ooltadunga, Gooreeparah, South Sealdah, Khodleah, Nimtollah, Jonmajoy Baboo's, Khodagunge, and Khodghatta roads, and the Sborah road between the Balliaghatta and Narkooldangah roads.

In the said Station—

The Hooghly road northward from the point where it is crossed by the Old Benares road.

The Old Benares road westward from the same point.

Or for making or maintaining any part of any other main road of communication between the Town of Calcutta and the interior of the country which may hereafter be constructed.

XXIII. The Lieutenant Governor of Bengal shall cause statements to

Statement of expenses incurred and of receipts and disbursements of Fund to be published annually.

be prepared annually of all expenses incurred on account of making, repairing, and improving the roads of the said suburbs and of the said station, and of all sums credited to and disbursed from the Suburban Roads Fund and the

Howrah Station Roads Fund; and the said statements shall be published in the Official Gazette for general information.

SCHEDULE.

	Rupees per Quarter.
For every 4-wheel carriage on springs, drawn by two horses	4 8 0
For every 4-wheel carriage on springs, drawn by one horse, or pony, or a pair of ponies, under thirteen hands	1 8 0
For every 4-wheel carriage without springs	1 8 0
For every 2-wheel carriage on springs	2 4 0
For every 2-wheel carriage without springs, drawn by a horse, pony, or mule	0 12 0
For every horse	2 4 0
For every pony under thirteen hands, or mule	0 12 0
	Ponies

ACT No. XII OF 1858.

Ponies under eleven hands, and children's carriages the wheels of which do not exceed twenty-four inches in diameter, exempt.

A.

NOTICE OF DEMAND.

Take notice that the Collector of the Horse and Carriage-tax for demands from you the sum of _____ due from you for _____ for the months of _____ 185 _____ ; and that, if the sum due is not paid into the said Collector's Office at _____ , or if sufficient cause for the non-payment of the sum is not shown to the Collector within five days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

(Signature of the Collector.)

Date_____

B.

DISTRESS WARRANT.

To *(here insert the name of the Officer charged with the execution of the warrant.)*

Whereas _____ of _____ has not paid or shown sufficient cause for the non-payment of the sum of _____ Rupees due for the taxes mentioned in the margin for the months of _____ 185 _____ , although the said sum has been duly demanded in writing from the said _____ , and five days have elapsed since the service of the notice of demand ; This is to command you to distrain the goods and chattels of the said _____ to the amount of the said sum of _____ Rupees and such further sum as may be sufficient to defray the charges of taking, keeping, and selling such distress ; and if, within five days next after such distress, the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said goods and chattels ; and having paid and deducted out of the proceeds of the sale the said sum of _____ Rupees and the charges of taking, keeping, and selling such distress, to return the surplus (if any) on demand to the person whom you shall find in possession of the said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said _____ , you are to certify the same to me together with this warrant.

(Signature of the Collector.)

C.

ACT No. XII of 1858.

C.

FORM OF INVENTORY AND NOTICE.

(State particulars of goods seized.)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of Rupees due for the taxes mentioned in the margin for the months of 185 ; and that unless you pay into the Office of the Collector of the Horse and Carriage-tax for the amount due, together with the costs of this distress, within five days from the day of the date of this notice, the goods and chattels will be sold.

(Signature of the Collector.)

Date _____

D.

Table of Fees payable upon distraints under this Act.

Sum distrained for.		Fee.	
		Rs.	As.
Under 1 Rupee		0	4
1 and under 3 Rupees		0	8
3 " 5 "		1	0
5 " 10 "		1	8
10 " 15 "		2	0
15 " 20 "		2	8
20 " 25 "		3	0
25 " 30 "		3	8
30 " 35 "		4	0
35 " 40 "		4	8
40 " 45 "		5	0
45 " 50 "		5	8
50 " 60 "		6	0
60 " 80 "		7	8
80 " 100 "		9	0
Above " 100 "		10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.



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II. After any such proclamation shall have been issued, whoever having in his possession any such property as aforesaid, knowing it to belong to Her Majesty or to the East India Company, shall, without lawful or reasonable excuse, conceal or attempt to conceal the same, or neglect to deliver it up as required by the proclamation, shall be liable on conviction to the punishment provided by the preceding Section.

Concealing or neglecting to deliver up such property after issue of proclamation.

III. For offences under this Act, the offender may be tried and sentenced by a Sessions Judge or by a Special Commissioner appointed in the manner provided by Act XIV of 1857; and the sentence or judgment shall not be subject to appeal. Provided that a European British subject shall not be tried under the provisions of this Act.

Jurisdiction.

IV. Nothing in this Act shall be deemed to exempt any person from any punishment to which he may be liable under Act XVI of 1857.

Act not to exempt persons from punishment under Act XVI of 1857.

V. This Act shall continue in force for the period of two years from the time of the passing thereof.

Duration of Act.



ACT No. XIV OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA

(Received the assent of the Governor General on the 9th April 1858.)

AN ACT to extend the provisions of Act XXI of 1855 in the Presidency of Fort Saint George to Minors not subject to the superintendence of the Court of Wards.

WHEREAS, by Section XX Regulation V. 1804 and Section III Regulation X. 1831 of the Madras Code, the Zillah Courts, subject to the confirmation of the Sudder Adawlut, are authorized and required to appoint guardians to the Minor heirs of property of every description not subject to the jurisdiction of the Court of Wards, and by Clause 9 Section XXI of the former Regulation the guardians are required to provide for the education of their Wards in a manner suitable to their rank and condition; and whereas, by Act XXI of 1855, better provision has been made for the education of Minors subject to the superintendence of the Court of Wards, and it is expedient that the same powers which are thereby given to the Collectors and Court of Wards in respect of the Minors under their superintendence should be exercised by the Zillah Courts, subject to the control of the Sudder Adawlut, in respect of the Minors for whom they are required to appoint guardians; It is enacted as follows:—

I. The general superintendence and control of the education of every male Minor, for whom a guardian has been or shall be appointed by the Zillah Court, is hereby vested in the Judge of the Zillah Court of the District within whose jurisdiction such Minor's estate is situate; or, if such Minor is possessed of immoveable property within the jurisdiction of more than one Zillah Court, in the Judge of such Court as the Sudder Adawlut shall direct.

General superintendence and control of the education of male Minor Wards vested in Zillah Judges.

II. The

ACT No. XIV of 1858.

II. The Judge of the Zillah Court, subject to the control of the
Powers of Zillah Judges. Sudder Adawlut, is hereby authorized to exercise in respect of such Minor and the guardian of such Minor all the powers and authorities which, by Sections II, III, IV, and V Act XXI of 1855, the Collector of Revenue or the Court of Wards is authorized to exercise in respect of Minors and guardians of Minors whose property is under the management of the Court of Wards.

III. The right to the custody of the person of every male Minor, for whom a guardian is appointed by the Judge of the Zillah Court, is hereby vested in the person appointed by the Judge of the Zillah Court, with the confirmation of the Court of Sudder Adawlut, either originally or upon there moval of a former guardian, to be the guardian of such Minor.
The right to the custody of the person of a male Minor vested in guardian appointed by the Zillah Judge with the confirmation of Sudder Court.

IV. All orders and proceedings of a Judge of a Zillah Court under the provisions of this Act shall be subject to the revision of the Court of Sudder Adawlut, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Court of Sudder Adawlut.
Appeal from the orders of a Zillah Judge to lie to Sudder Court.



ACT No. XV OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th April 1858.)

AN ACT for the levy of Port-dues in the Port of Aden.

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

I. A Port-due, at a rate not exceeding the rate of one anna for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards (except fishing boats) which shall enter the said Port.

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

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

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

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in the same calendar month in respect of the same vessel.

No vessel to pay Port-due oftener than once a month.

IV. Vessels entering the Port, and leaving the same within seven days without discharging or taking in any cargo or passenger therein, shall be charged with one-half only of the Port-due which would otherwise be chargeable.

Port-due on vessels leaving Port with in seven days without breaking bulk.

V. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Vessels entering the Port in ballast.

VI. This

ACT No. XV of 1858.

VI. This Act shall commence and have effect on the first day of
Commencement of May 1858 ; and the local Government shall on or before
Act. that date, pursuant to Section XLII Act XXII of 1855,
declare, by notification to be published in the Bombay Gazette, the rates
Rates of Port-dues .at which Port-dues shall be levied in the said Port
to be published. subject to the provisions of and within the limits
prescribed by this Act; and from and after the said date, no Port-due
No other Port-dues or fee shall be levied at the said Port, except under the
or fees to be levied. authority of Act XXII of 1855 and of this Act.

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

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



ACT No. XVI OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th April 1858.)

AN ACT to extend Act XXV of 1855.

Preamble. WHEREAS it may be found expedient to establish at Ootacamund on the Neilgherry Hills a Subordinate Criminal Court constituted according to Regulation II. 1827 of the Code of Fort Saint George ; It is enacted as follows :—

When the Governor in Council of Fort Saint George shall establish at Ootacamund on the Neilgherry Hills a Subordinate Court constituted according to Regulation II. 1827 of the Code of Fort Saint George, the provisions of Sections I and II of Act XXV of 1855 shall apply to commitments made by such Court ; and it shall be lawful for the Judge of such Court to exercise, by appointment of the Government of Fort Saint George, all the powers of a Joint Magistrate.

Act XXV of 1855 to apply to commitments made by a Subordinate Criminal Court at Ootacamund.

Judge of such Court to exercise powers of a Joint Magistrate.



ACT No. XVII OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 20th April 1858.)



AN ACT to repeal the Laws relating to the levy of Light-dues at Ports
within the limits of the Gulf of Cambay.

WHEREAS provision has been made by law for raising a Fund by the
levy of Port-dues in certain Ports within the limits of
the Gulf of Cambay, which Fund will be available as well
for the construction and maintenance of Light-houses within the said limits,
as for expenses incurred on account of any of the said Ports; and it is
therefore no longer necessary to levy Light-dues at any Ports within the
said limits: It is enacted as follows:—

I. Regulation VI. 1831 of the Bombay Code and Act I of 1836 are
hereby repealed.

II. This Act shall commence and have effect from
and after the 1st day of May 1858.



ACT No. XVIII OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 27th April 1858.)

AN ACT for the regulation of certain Ports within the Presidency of Fort St. George.

WHEREAS it is expedient to provide for the safety of vessels and the convenience of traffic in Ports within the Presidency of Fort St. George declared under Section XXIV Act VI of 1844 to be Ports for the landing and shipment of merchandize, but to which the general provisions of Act XXII of 1855 are not suitable ; It is enacted as follows :—

Preamble.

I. The provisions contained in Sections XVI and XXIV of Act XXII of 1855 shall be applicable to the Ports mentioned in the Schedule to this Act annexed, being Ports declared by the Governor in Council of Fort St. George, under Section XXIV Act VI of 1844, to be Ports for the landing and shipment of merchandize ; and may be enforced by any Magistrate to whose ordinary jurisdiction any such Port is subject : and any penalties imposed by such Magistrate, and any expenses incurred by his order under the said provisions, shall be recoverable respectively in the manner provided in Sections LV and LVII of the said Act XXII of 1855.

Sections XVI and XXIV Act XXII of 1855 to be applicable to certain Ports.

Recovery of penalties and expenses.

II. In any of the said Ports, the consent referred to in Section XXIV of the said Act XXII of 1855 may be given by the Principal Officer of Customs at such Port, or by any other Officer in that behalf appointed by Government.

Consent of Principal Officer of Customs or other Officer necessary for discharging ballast, &c.

SCHEDULE

ACT No. XVIII OF 1858.

SCHEDULE.

DISTRICTS.	PORTS.
Ganjam	Ganjam. Monsoorcottah. Sonnapore. Barwah. Poondy. Bauvanapaudoo. Calingapatam. Guddalapaudoo.
Vizagapatam	Conadah. Poodeermerkah. Watadah. Cotapatnam. Pentacottah. Polaveram.
Rajahmundry	Woopadah. Nursapoor. Bendamoorlunka.
Guntoor	Nezampatam. Eapoorpollem. Cottapaulum. Putchu Moyale. Mootoopully. Ching Ganjam. Sholagam.
Nellore	Cottapatam in the division of Paudurty. Etamoorkala. Paukala. Rameapatam. Toommalapentah. Joovaladinnah. Eskapully. Ponapoody. Mypaud. Kistnapalam. Doogarauzepatam. Chenneapollem. Paumunjy. Toopelly. Poody.

Rauzpatam.

ACT No. XVIII OF 1858.

DISTRICTS.	PORTS.
Nellore—(continued)	Rauzpatam. Pandurty. Goondamoola. Canoopurty. Davarumpaud. Elamoorkeela. Rauzpollem. Chaukecherla. Cazaidoo. Bingalapully. Vareney. Midda. Naluntoor. Codoor. Edoor. Wootcoor. Pumbuly. Cottapatam in the division of Cottapatam.
Chingleput	Pulicat. Covelong.
South Arcot	Porto Novo. Markanum.
Tanjore	Nagore. Topetoray. Valangany. Trimulavassel. Codiarpalliam. Mootoopettah. Adrampatam. Ammalipatam, Cattoomavady. Gopaulpatam.
Madura	Davepatam. Hiroopaulacoody. Morepunnay. Aattenkurray. Keelakurray. Tondy. Karengaudoo. Podoopal. Numbetali.

Dhamoderapatam

ACT No. XVIII of 1858.

DISTRICTS.	PORTS.
Madura—(continued)	Dhamoderapatam. Theethandathanum. Soonderapandiew. Arsanagherry. Cottapatnam. Ramasweram. Thungacheenadum. Mundapam. Pillamadam. Vadalay. Mercaypatnam.
Tinnevelly	Vypaur. Coilpatam. Coolasagarapatam.
Malabar	Cavay. Balleapatam. Egaar. Darmapatam. Calay near Mahe. Chombay. Baddagherry. Mootangnel. Kottah. Quilandy. Trecody. Cudaloor. Kapaat. Eletoor. Poodiangaddy. Molankadoo. Beypoor. Tanore. Parparangaddy. Parroney. Ponany. Koottay. Veliangode. Audatode. Manalaukoona.

ACT No. XVIII OF 1858.

DISTRICTS.	PORTS.
Malabar — (<i>Continued</i>)	Choughat. Attakooye. Koorkooye. Maddawye. Attepoorum.
Canara	Moolky. Munjashwer. Cassergode. Coombalah. Bekul. Cautcutcherry. Oodiaiver. Puidbidry. Caup. Oachill. Yermall. Barcoor. Cundapoor. Naikunkutta. Byndoor. Seeroor. Butkul. Sheerully. Moordesher. Munky. Coompta. Honaver. Tuddry. Sedashegur. Gungavally. Aukola. Belekerry. Chendiyeh. Binnagah. Oodipy.



ACT No. XIX of 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 11th May 1858.)

AN ACT to provide for the authentication of Stamped Paper issued from the Stamp Office in Calcutta.

WHEREAS, during the recent disturbances, a large quantity of Stamped Paper issued from the Stamp Office in Calcutta, and remaining unsold in several of the Collectors' Treasuries and in the possession of divers Stamp vendors, was plundered; and it is necessary to provide against the unlawful use of such Stamped Paper, and the loss which would ensue to Government from such use thereof: It is enacted as follows:—

Preamble.

I. After the passing of this Act, no deed, instrument, or other writing specified in Schedule A Regulation X. 1829 of the Bengal Code and required by that Regulation to be stamped, and which shall bear date or shall appear to have been written after the passing of this Act, shall be filed, exhibited, or received in any Court of Justice or in any public Office, unless the stamped paper, vellum, parchment, or other material upon which such deed, instrument, or other writing is written, shall either bear such stamp, signature, or other mark as hath been or shall be prescribed by the Governor General in Council or by the Lieutenant-Governor of Bengal for the purpose of distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January 1858, or be authenticated as having been duly purchased by having thereon the signature and official designation either of the Superintendent of Stamps in Calcutta, or of the Collector of some District, or of his Deputy or Assistant, together with the date of such signature.

After passing of Act, no document required by Regulation X. 1829 to be stamped, shall be filed &c. unless bearing stamps authenticated as prescribed.

II. After the passing of this Act, no law-paper specified in Schedule B of the said Regulation and required by such Regulation to be stamped, shall be filed, exhibited, or received in any Court of Justice or in any public Office, unless such law-paper shall either bear the stamp, signature, or other mark

Authentication of stamps on law-papers mentioned in Schedule B of Regulation X. 1829.

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mark required for distinguishing stamps issued subsequently to the said 6th day of January 1858, or be authenticated as having been duly purchased by having thereon the signature and official designation either of the Superintendent of Stamps in Calcutta, or of the Collector of some District, or of his Deputy or Assistant, together with the date of such signature.

III. A notification of the stamp, signature, or other mark prescribed for distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January 1858, shall be published in the Calcutta Government Gazette and in such other Gazettes as shall be published or shall circulate in any District in which stamps issued from the Stamp Office in Calcutta are used.

Notification to be published of distinguishing mark on stamps issued after 6th January 1858.

IV. In every District in which stamps issued from the Stamp Office in Calcutta are required by the said Regulation X. 1829 to be used, a proclamation shall be issued by the Collector requiring all persons, within a time to be specified in the proclamation, not being less than one month from the date of such proclamation, to cause all unused paper, vellum, parchment, or other material stamped under the provisions of the said Regulation, which may be in their possession, not bearing the stamp, signature, or other mark required for distinguishing stamps issued after the 6th day of January 1858, and which shall not have been authenticated in the manner above required, to be sent in to, or produced at, the Office of such Collector or of his Deputy or Assistant for the purpose of being authenticated or exchanged for new stamps.

Proclamation to be made requiring unused paper bearing stamps issued prior to the 6th January 1858, to be sent in for authentication.

V. Every person who, within the time specified in the proclamation, or within such further time as the Collector or his Deputy or Assistant shall consider reasonable under the circumstances of any particular case, shall cause to be produced at such Office as aforesaid, any such unused stamped paper, parchment, vellum, or other material as aforesaid, and shall prove to the satisfaction of the Collector or of his Deputy or Assistant that such stamp was honestly obtained from Government and paid for, shall be entitled to have the same authenticated by such Officer in manner aforesaid, or to have the same exchanged by such Officer for new stamps of the same amount.

Such unused stamped paper, if proved to have been honestly acquired, shall be authenticated by the Government Officer.

VI. Any

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VI. Any such unused stamped paper, parchment, vellum, or other material so sent in or produced as aforesaid, which shall not either bear the stamp, signature, or other mark required for distinguishing stamps issued after the said 6th day of January 1858, or have been authenticated in manner aforesaid, and which shall not be proved to the satisfaction of the Collector or of his Deputy or Assistant to have been honestly obtained from Government and paid for, shall be detained by such Officer as Government property; and any such stamped paper, parchment, vellum, or other material, which shall be found in the possession of any person, may be seized by any Magistrate or by any Officer of Police or Revenue Officer, and sent in to the Collector's Office; and if such paper, parchment, vellum, or other material shall be so found after the time required for sending in the same for authentication or exchange, it may be detained as the property of Government.

Such unused stamped paper if not proved to have been honestly acquired, or if not sent in within prescribed time, to be detained as Government property.

VII. Any Officer of Police having power by law to search for stolen property may, subject to the provisions under which he is empowered to make such search, proceed to search houses or places in which there may be reasonable cause to suspect that there is any such stamped paper, parchment, vellum, or other material not bearing the stamp, signature, or other mark required for distinguishing stamped paper issued after the 6th day of January 1858, and not authenticated in manner aforesaid as having been duly purchased from Government, and may seize and transmit to the Collector any such stamped paper as aforesaid.

Police Officer empowered to search for and seize unauthenticated stamped paper.

VIII. The words "Collector" or "his Deputy or Assistant" shall be deemed to include any Officer exercising the powers of a Collector or of his Deputy or Assistant respectively.

Interpretation.



ACT No. XX OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 18th May 1858.)

AN ACT to facilitate the recovery of land and other real property, of which possession may have been wrongfully taken during the recent disturbances in the North-Western Provinces of the Presidency of Bengal.

WHEREAS there is reason to believe that, during the recent disturbances
in the North-Western Provinces of the Presidency of
Bengal, many persons have, without authority of law,
been dispossessed of land or other real property; and it is expedient
to provide a more easy and speedy means whereby they may obtain redress
than is afforded by the ordinary remedy of a regular Civil action: It is
enacted as follows:—

I. It shall be lawful for the Executive Government of the North-
Western Provinces of the Presidency of Bengal, to
appoint one or more Special Commissioners for the sum-
mary determination of cases of wrongful dispossession
of land or other real property in any part of the territories subject to its
jurisdiction; and to assign, from time to time, such local jurisdiction to the
Special Commissioner or Commissioners so appointed as may appear proper.

II. Whenever any Special Commissioner, appointed under this Act,
shall be vested, by order of such Executive Government,
with jurisdiction in any District or Districts or in any
part or parts of any District or Districts, notice thereof
shall be given by a written proclamation, of which copies shall be affixed
in the several Courts and in the Offices of the several Collectors and Magis-
trates of such District or Districts; and the powers heretofore vested in the
Courts of such District or Districts, in respect of all cases
cognizable by the Special Commissioners appointed
under this Act, shall be suspended until such Courts
shall

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shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of the Special Commissioner has ceased, of which notice shall be given by proclamation in the manner aforesaid. Provided that nothing in this Section shall

Proviso. interfere with the trial and decision of any case which may be pending before any Court at the time of the passing of this Act, unless such case be transferred for trial and decision to a Special Commissioner appointed under this Act.

III. Any case pending before any Court sitting as a Court of original jurisdiction at the time of the passing of this Act, in Disposal of pending cases. respect of a matter made cognizable by a Special Commissioner appointed under its provisions, shall, on the application of the party complaining, be transferred to the Special Commissioner within the limits of whose jurisdiction the property in dispute is situate; and such Commissioner shall summon the Defendant and proceed to dispose of the case in the same manner as if it had been instituted before himself.

IV. The Special Commissioners appointed under this Act may hold Courts of the Commissioners where to be held. a Court at any place within the limits of their jurisdiction, which may appear most convenient for the trial of cases brought before them.

V. Whenever any Special Commissioner shall be vested with jurisdiction under this Act, such Commissioner shall issue Issue of Proclamation. a proclamation requiring all persons within the limits of his jurisdiction who may, without authority of law, have taken possession of any land or other real property, situated within such limits, subsequently to the 10th May 1857, to deliver up the same, within a period to be fixed in the proclamation, to the party who was in possession at the time when such unlawful possession was taken; and warning all persons that, in the event of their failing to comply with such requisition, and of its being afterwards proved, on the complaint of the party ousted, that they had, without authority of law, taken possession of the land or other real property mentioned in the complaint subsequently to the said 10th May 1857, and that they continue in possession of the same, they will not only be ejected from such land or other real property, and be compelled to account for any mesne profits that may have accrued during the period that they may have held

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held possession thereof, but will also be liable to such punishment as the Special Commissioner may award under the powers vested in him by this Act. Copies of such proclamation shall be affixed in the Court of the Special Commissioner, and in the several Courts and in the Offices of the several Collectors and Magistrates of the District or Districts to which the jurisdiction of the Special Commissioner may extend.

VI. After the expiration of the period mentioned in the proclamation, any person who may, without authority of law, have been dispossessed of any land or other real property subsequently to the said 10th May 1857, may apply to the Commissioner, within whose jurisdiction such land or other real property is situate, to be re-instated in the possession of the same. The application may be written on plain paper, and shall contain the following particulars:—

Applications by persons unlawfully dispossessed.

1. Name, description, and place of abode of the Plaintiff.
2. Name, description, and place of abode of the Defendant.
3. The subject of the complaint, the title under which the Plaintiff claims to have been in possession thereof, and the date on which he was dispossessed.

VII. Whenever such application may be made, the Special Commissioner shall examine the Plaintiff on oath or solemn affirmation as to the truth of his complaint; and if satisfied that there is probable cause for instituting the complaint, he shall issue a summons requiring the Defendant to appear and make defence in person on a day to be fixed in the summons; or if he see sufficient cause for so doing, he may issue his warrant for the arrest of the Defendant and for his being brought before his Court on a day to be fixed in the warrant. Provided that the Special Commissioner may, for any good or sufficient reason, excuse the Plaintiff or Defendant from attending his Court in person and allow him to appear by a duly authorized representative who may be examined instead of such Plaintiff or Defendant.

Procedure before day of hearing.

VIII. On the day fixed for the appearance of the Defendant, the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements; and if either party require the assistance

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assistance of the Special Commissioner to procure the attendance of a witness on such day, he shall apply to the Special Commissioner in sufficient time before the day fixed for the appearance of the Defendant, and the Special Commissioner shall issue a subpoena requiring such witness to attend his Court on that day.

IX. On the day fixed for the appearance of the Defendant, or as soon after as may be practicable, the Special Commissioner shall proceed to examine the parties or their representatives (in cases where personal attendance is excused) or such of them as may be present, and their witnesses ; and if, upon such examination, and after inspecting the documents of the parties, and making any further enquiry which may appear to him necessary, the Special Commissioner shall be of opinion that the complaint is substantiated, he shall order the Plaintiff to be put again into possession of the property in dispute, and to be maintained in possession thereof: he may also adjudge the Plaintiff to be entitled to recover from the Defendant mesne profits for the period during which the Defendant may be found to have been in possession of the property. It shall further be lawful for the Special Commissioner, on proof that the Defendant continued in possession of the property in dispute after the expiration of the period fixed by the proclamation, to sentence him to imprisonment in the Criminal jail with or without labor for a period not exceeding seven years, or to a fine, or to both imprisonment and fine.

X. The provisions of the Regulations and Acts for procuring the attendance of witnesses, and for the examination, remuneration, and punishment of witnesses in suits before the Civil Courts, shall be of equal force and effect in complaints tried under this Act.

XI. The order of the Special Commissioner for giving possession of the whole or any portion of the land or other real property to which the complaint may relate, shall be immediately executed ; and it shall be competent to the Special Commissioner to call in the aid of the Magistrate, if necessary, for the purpose of enforcing the same. If the order adjudge the Defendant to be liable to pay to the Plaintiff mesne profits, it shall specify the period for which the same shall be paid, and the

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the Commissioner shall refer the case to the Collector to adjust the amount. In cases so referred, it shall be competent to the Collector to levy the amount which may be awarded by him, and also the amount of any fine which may have been imposed by the Special Commissioner upon the Defendant, by the same process as is authorized for the recovery of arrears of the public Revenue. All proceedings of a Collector under this Section shall be subject to the control and revision of the next superior Revenue authority, whose order shall be final.

XII. All orders passed by a Special Commissioner in cases cognizable under this Act, shall be final; but nothing in this Act shall be held to preclude either of the parties to the case from instituting a regular suit to establish his right to the property in dispute, under the rules applicable to regular Civil actions.

Order of Special Commissioner to be final.
Saving of right to institute a regular suit.

XIII. This Act may be extended by the Governor General in Council, or by the Executive Government of any Presidency or place, to any District or Districts within the limits of their respective Governments in which disturbances shall have taken place subsequently to the said 10th May 1857; and it shall be lawful for the Governor General in Council or such Executive Government to exercise, in the District or Districts to which this Act may be so extended, all the powers vested by this Act in the Executive Government of the North-Western Provinces.

Act may be extended by the Executive Governments.

XIV. This Act shall continue in force for the period of three years.

Duration of Act.



ACT No. XXI OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 25th May 1858.)

AN ACT for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.

WHEREAS abuses have occurred in the over-crowding of Ships conveying Native Passengers between Ports and places within the territories in the possession and under the Government of the East India Company and Ports and places in the Red Sea or Persian Gulf; and whereas it is expedient to prevent such abuses, and to provide for the regulation of all Ships carrying Native Passengers as aforesaid which shall depart from or arrive at any of the Ports or places within the said territories, and also for the regulation of Steam Vessels intended to carry passengers on coasting voyages; It is enacted as follows:—

I. Every Vessel carrying more than thirty passengers being natives of Asia or Africa, which may depart or proceed on any voyage from a Port or place within the said territories to any Port or place in the Red Sea or Persian Gulf, or which may arrive at any Port or place within the said territories from any Port or place in the Red Sea or Persian Gulf, having on board more than thirty such passengers, shall be deemed a Native Passenger Ship within the meaning of this Act.

II. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act extends from any Port or place within the said territories other than such Ports and places as the local Government may from time to time appoint; and after any Native Passenger Ship has departed or proceeded upon any such voyage from a Port or place so to be appointed, no person

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person whatsoever shall be received on board as a passenger, except at some other duly appointed Port or place.

III. No Native Passenger Ship shall depart or proceed upon any such voyage from any Port or place appointed under this Act, until the Master shall have obtained a certificate from an Officer authorized to grant the same.

Not to sail without obtaining a certificate.

IV. If any Native Passenger Ship departs or proceeds upon a voyage from any Port or place within the said territories, or if any person is received as a passenger on board a Native Passenger Ship in contravention of the provisions of the last two preceding Sections, the Owner or Master shall be liable to a penalty not exceeding one hundred Rupees for every passenger conveyed on a Ship unlawfully departing or proceeding on such voyage, or for every passenger unlawfully received on board; and the Ship, if found within two years in any place within the said territories, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act have been adjudicated, and the payment thereof, with all costs, have been enforced under the provisions of Section XXIX.

Penalty.

V. The local Government shall appoint such persons as it may deem proper to exercise or perform the powers and duties conferred or imposed by this Act.

Appointment of Officers.

VI. The Master of any Native Passenger Ship sailing from any Port or place appointed under this Act, shall give notice to the proper Officer that the Ship is to carry Native Passengers, and of her destination, and of the proposed day of sailing; such notice shall be given not less than three days before the proposed day of sailing.

Master to give notice of day of sailing &c.

VII. After receiving such notice, the Officer aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect the Ship and the fittings, provisions, and stores therein; and any person impeding or refusing to allow such inspection, shall be liable, on conviction, to a penalty not exceeding five hundred Rupees for each offence.

Power to enter and inspect Ship.

VIII. The

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VIII. The Officer aforesaid may, if he think fit, cause the Ship to be surveyed at the expense of the Master by a competent surveyor, who shall report whether the Ship is, in his opinion, sea-worthy and fit for her intended voyage.

Ship may be surveyed.
Officer to be satisfied before giving certificate—

IX. The Officer aforesaid shall not give his certificate, unless he shall be satisfied—

1. That the Ship is sea-worthy and properly manned, equipped, fitted, and ventilated; and has not on board any cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers.

That the ship is sea-worthy.

2. That the space appropriated to the passengers in the between-decks contains at the least nine superficial and fifty-four cubical feet of space for every adult passenger on board, that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years.

That the space between-decks for passengers is sufficient.

3. That a space of four superficial feet per adult is left clear on the upper deck for the use of the passengers.

That the space on the upper deck is sufficient.

4. That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale hereinafter contained.

That there is a due supply of provisions.

X. No such Ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the Ship.

Number of passengers.

XI. The Master of any such Ship, before departing or proceeding on any such voyage from any Port or place within the said territories, shall sign two lists, specifying (as accurately as may be) the names of all the passengers, and stating the number of the

List of passengers.

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the crew; and shall deliver them to the Officer aforesaid, who shall thereupon (after having first mustered the passengers and compared the number and names of such passengers with the lists) countersign and return to the Master one of such lists. The Master shall note in writing on such last mentioned list, and on any additional list to be made under this Act, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith, on the arrival of the Ship at her destination or at any Port in the said territories at which it may be proposed to land passengers and before any passengers are landed, produce the list, with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the Port of arrival if it be a Foreign Port, or to the Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any Port or place within the said territories at which it shall be intended to land the passengers or any of them. In case of non-compliance with any of the requirements of this Section on the part of the Master, or if any false entry be wilfully made in any such list, the Master shall be liable to a penalty not exceeding five hundred Rupees for each offence.

XII. If, after the Ship shall have departed or proceeded on any such voyage, any additional passengers are taken on board at a Port or place, within the said territories, appointed under this Act for the embarkation of passengers, or if such Ship shall, upon her voyage, touch or arrive at any such Port, having previously received on board additional passengers at any place out of the said territories, the Master shall obtain a fresh certificate from the Officer at such Port, and lists of all such additional passengers shall be made; and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate to be granted or any list to be made under this Section.

Ship taking additional passengers and touching at intermediate Port.

XIII. If any Master of a Ship, after having obtained a certificate under Section III or Section XII of this Act, shall fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the Ship, its passengers, or other matters to which such certificate relates, he shall be liable to a penalty not exceeding two thousand Rupees.

Penalty for fraudulent alteration in Ship after certificate obtained.

XIV. The

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XIV. The Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any Port or place within the said territories at which the Ship shall touch or arrive, shall, with advertence to the requirements of this Act, transmit any particulars which he may deem important respecting the Ship and the passengers conveyed therein, to the Officer at the Port from which the Ship commenced her voyage, and also to the Officer at any other Port within the said territories where the passengers or any of them embarked.

Information to be transmitted to Ports of embarkation.

XV. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars as are referred to in the last preceding Section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any Foreign Port, shall be received in evidence, if the same appears to have been officially transmitted to any Officer at or near the place where the proceeding under this Act is had.

Report of Consul, &c., to be admissible in evidence.

XVI. It shall be lawful for the local Government, by any proclamation to be from time to time issued for that purpose and published in the Government Gazette (if any), or in one of the public newspapers, to declare what shall be deemed, for the purposes of this Act, the duration of the voyage of any Native Passenger Ship from any Port or place to any other Port or place.

Length of voyage to be fixed by proclamation.

XVII. Every Native Passenger Ship, at the time of departure from the Port or place at which passengers shall be embarked under this Act, shall have on board good and wholesome provisions for the use and consumption of the 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 to every week of the computed voyage for every passenger on board, such water being carried in tanks or sweet casks, and a supply of rice, 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 shall be destined to call at a Port or place in the course

Quantity of provisions and water to be shipped.

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course of her 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 Act. The provision of this Section regarding food shall be deemed to have been complied with in any case where it shall appear that, by the special authority of the local Government, any other articles of food were substituted for the articles above enumerated as being equivalent thereto.

XVIII. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who may have contracted to furnish his own provisions.

Contract by passengers for supply of their own provisions.

XIX. If any Ship, bringing passengers from any Port or place in the Red Sea or Persian Gulf to any Port or place within the said territories, shall have on board a greater number of passengers or persons than in the proportion prescribed by this Act, the Master of such Ship shall, in addition to any other penalty which he may have incurred under the provisions of this Act, be liable, on conviction, to a penalty not exceeding fifty Rupees for each person in excess of such proportion.

Penalty on Ships bringing excessive number of passengers from certain foreign Ports to Indian Ports.

XX. Nothing in the foregoing provisions of this Act contained shall apply to any Ship-of-War or Transport belonging to or in the service of Her Majesty or of the East India Company, or to any Ship-of-War belonging to any Foreign Prince or State, or to any Ship under contract with the Government of any European State, or to any sea-going Steam Vessel regularly employed in the conveyance of the public mails under a contract.

Act not to apply to Ships-of-War &c.

Or to sea-going Steam Vessels conveying public mails.

XXI. Steam Vessels which may be intended to carry passengers on coasting voyages from or to any Port or place whatsoever within the said territories, shall, before proceeding on such voyages, be furnished with certificates to be granted in the manner hereinafter provided.

Certificates to be furnished to Coasting Steam Vessels intended to carry passengers.

XXII. Every

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XXII. Every such certificate shall be granted at the discretion of an Officer authorized to grant the same by the local Government, and shall remain in force for the period therein specified, unless sooner revoked. The Officer so authorized shall not grant such certificate, or suffer the same to remain in force, unless he is satisfied, by inspection or survey (to be made at least twice in each year at the expense of the Master or Owner, and upon payment of a fee not exceeding twenty Rupees), that such Steam Vessel is sea-worthy and properly equipped with boats and otherwise, and that the engines and machinery are in a fit state to enable her to proceed on her voyage. The certificate shall state the limits (if any) within which the Vessel is to ply, and the number of Native Passengers which the Vessel is permitted to carry: such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, and the cargo carried, as the case requires.

Certificates to Coasting Steam Vessels how to be granted, &c.

XXIII. The Owner or Master of any such Steam Vessel shall put up in a conspicuous part of the Ship, so as to be visible to persons on board the same, a copy of the said certificate, and shall cause it to be continued in such position so long as the certificate remains in force; and in default, such Owner or Master shall for each offence be liable to a fine not exceeding two hundred Rupees.

Copy of certificate to be placed in conspicuous part of Ship.

XXIV. If such Steam Vessel has on board thereof any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, the Owner or Master shall be liable to a fine not exceeding twenty Rupees for every passenger over and above the number allowed by the certificate.

Penalty for excess of number specified in certificate.

XXV. If any such Steam Vessel shall proceed on any such voyage without such certificate as aforesaid, the Owner or Master shall be liable to a fine not exceeding five hundred Rupees.

Penalty for proceeding without certificate.

XXVI. In the grant or revocation of any certificate whatsoever under this Act, the Officer granting the same shall be subject to the control of the local Government or of any intermediate authority which that Government may appoint.

Grant of certificate to be subject to control of Government.

XXVII. If

ACT No. XXI of 1858.

XXVII. If any Native Passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding two hundred Rupees.

Penalty on landing passenger at a place other than that at which he has contracted to land.

XXVIII. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Passenger's right of action preserved.

XXIX. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Owner of a Ship, and the same is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture, and apparel.

Adjudication of offences and recovery of penalties.

Sum ordered to be paid leviable by distress on Ship.

XXX. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Jurisdiction.

XXXI. The penalties to which Masters and Owners of Ships are liable by this Act, shall be enforced only by information laid at the instance of the Officers appointed to grant certificates under this Act; or at any Port or place where there is no such Officer, by the Chief Officer of Customs.

By whom proceedings for penalties to be instituted.

XXXII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect

Application of penalties.

ACT No. XXI of 1858.

pect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

XXXIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII of 1856, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and at the Port of Aden the Political Resident and his Assistant.

Interpretation.
"Magistrate."
The words "local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the Port or place in question is situate.

"Local Government."
"Master."
The word "Master" shall include every person having command or charge of a Ship or Steam Vessel.

Commencement of Act.
XXXIV. This Act shall commence and take effect from and after the 1st day of August 1858.



ACT No. XXII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 2nd June 1858.)

AN ACT to continue in force for a further period Acts XIV of 1857, XVI of 1857, and XVII of 1857, and to authorize in certain cases the transportation of offenders sentenced to imprisonment.

WHEREAS it is expedient that Acts XIV of 1857, XVI of 1857, and XVII of 1857 should continue in force until the end of the year 1859; and that, in certain cases, offenders sentenced to imprisonment under the said Acts should be transported beyond the sea; It is enacted as follows:—

Acts XIV, XVI, and XVII of 1857, continued.

I. Acts XIV of 1857, XVI of 1857, and XVII of 1857 shall continue in force until the end of the year 1859.

II. Unless the Governor General in Council shall otherwise order, whenever any Court or other Officer shall sentence an offender under any of the said Acts to imprisonment for a term exceeding three years, it shall be lawful for such Court or other Officer at the same time to order that the offender be transported beyond sea for such term.

Offenders sentenced to imprisonment may in certain cases be transported.



ACT No. XXIII OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 12th June 1858.)

AN ACT for bringing the District of Kurnool under the Laws of the Presidency of Fort Saint George.

WHEREAS it is expedient that the District of Kurnool should be brought under the Laws of the Presidency of Fort Saint George. It is enacted as follows:—

Preamble.

Act repealed.

I. Act X of 1843 is hereby repealed.

II. It is hereby enacted that, from and after the first day of July 1858, the District of Kurnool shall be subject to the Laws in force for the administration of Justice and collection of the Revenue in the several Zillahs and Collectorates under the Presidency of Fort Saint George.

Kurnool placed under the operation of the general Laws.



ACT No. XXIV OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 22nd June 1858.)

AN ACT to continue for six months the privileges granted by Act I of 1844 to certain members of the family, household, and retinue of his late Highness the Nabob of the Carnatic.

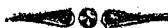
WHEREAS a Bill to continue certain privileges and immunities to the family and retainers of his late Highness the Nabob of the Carnatic, was read a second time in the Legislative Council and referred to a Select Committee of the said Council on the 5th day of June 1858; and whereas, according to the Standing Orders of the said Council, such Bill must be published twelve weeks before the Select Committee can report thereon; and whereas the protection granted by Act XVIII of 1857 to certain members of the family, household, and retinue of the said late Nabob will expire on the 4th day of July 1858, and it is expedient that such protection should be continued until after the Report of the Select Committee upon the above-mentioned Bill shall have been presented to, and the said Bill shall have been fully considered by the Legislative Council: It is enacted as follows:—

I. No writ or process shall, at any time within the period of six months from the time of the passing of this Act, be sued forth or prosecuted against the person, goods, or property of any person whose name was included in any list which was published under the provisions of the said Act I of 1844, and which was in force and effect for the purpose of the said Act at the time of the death of his said late Highness the Nabob of the Carnatic, unless such writ or process shall be sued forth or prosecuted with the consent of the Governor in Council of Fort Saint George first had and obtained, such consent to be testified by the signature of the Secretary or one of the Secretaries of Government.

No process to issue against the family or retinue of the late Nabob of the Carnatic for six months, unless with the consent of the Governor in Council.

II. Every writ or process, which shall be sued forth or prosecuted contrary to the provisions of this Act, shall be utterly null and void.

Process issued contrary to the Act to be void.



ACT No. XXV OF 1858.

PASSED BY THE LÉGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 7th July 1858.)

An Act for appointing Municipal Commissioners and for raising a Fund for Municipal purposes in the Town of Bombay.

WHEREAS it is expedient to make better provision for the appointment of Commissioners for the Conservancy and improvement of the Town of Bombay, and for assessing and levying rates and taxes for Municipal purposes in the said Town ; and whereas it is also expedient to provide additional funds for improving the Drainage of the said Town, and for repaying the expense incurred by Government in the construction of works for supplying water to the said Town ; It is enacted as follows :—

I. So much of the 158th Section of the Act of Parliament 33 Geo. III Cap. 52 as remains in force ; so much of Chapters II, IV, and VI of Regulation XIX. 1827 of the Bombay Code as remains in force, except Section XIII of Chapter II, and so much of Act VII of 1836 as relates to the repealed portions of those Chapters ; Regulation XXXII 1827 of the same Code ; and Act XI of 1845—are hereby repealed, except so far as they repeal any other Act, and except as to any assessment or tax which shall be unpaid and as to any proceeding for the recovery of the same which shall have been commenced before this Act comes into operation.

II. The assessment on houses, buildings, and grounds, made under the said Statute and the said Act XI of 1845, shall, until revised and altered under the provisions of this Act, remain in full force and effect, and shall be levied and recovered as a rate payable under this Act.

Present assessment to remain in force until revised.

A

III. Act XXV

ACT No. XXV of 1858.

III. Act XXV of 1856, entitled "An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," is incorporated with this Act. In construing the said Act, the expression "the Special Act" shall mean this Act; the expression "the Commissioners" shall mean the Municipal Commissioners constituted by this Act; and the expression "the local Government" shall mean the Governor of Bombay in Council.

Act XXV of 1856 incorporated.

Construction.

IV. There shall be three Commissioners for the purposes of this Act, and for the Conservancy and improvement of the Town of Bombay under Act XIV of 1856. The Governor in Council shall appoint one of the Commissioners, who shall be President of the Board of Commissioners. The other two Commissioners shall be elected by Her Majesty's Justices of the Peace in Sessions assembled.

Number, appointment, and election of Commissioners.

V. The Commissioners shall be styled "The Municipal Commissioners for the Town of Bombay," and shall by such name be a body corporate and have perpetual succession and a common seal, and by such name shall sue and be sued.

Commissioners incorporated.

VI. The Commissioner appointed by the Governor in Council shall be removeable at his pleasure. The two elected Commissioners shall remain in office for a period of three years, and at the end of every three years successively a like new election shall take place, but the same persons or either of them may be re-elected; and in the event of a vacancy occurring, by death or otherwise, within the said period, the Justices in Sessions assembled shall, as soon as convenient, elect a person to supply the vacancy until the next triennial election.

Tenure of office by Commissioners.

VII. The Municipal Commissioners shall meet once at least in every week. The attendance of two shall be necessary to constitute a meeting. At a meeting of two, on questions on which they are divided in opinion, if the President be one of them, he shall have a casting vote; otherwise the question shall be reserved for the decision of a future meeting.

Meetings of Commissioners.

VIII. The Municipal

ACT No. XXV OF 1858.

VIII. The Municipal Commissioners may receive such allowances out of the funds to be raised under this Act as shall be, from time to time, fixed by the Governor in Council. Provided that the allowances for any Commissioner shall not exceed the rate of ten thousand Rupees a year, if the Commissioner holds no other appointment or occupation ; or the rate of four thousand Rupees a year, if he holds any other appointment or occupation.

IX. In the execution of this Act and the Incorporated Act, and of Act XIV of 1856, the Commissioners shall not be subject to any check or control on the part of the Justices. Provided that, in respect of any work for the execution of which the consent or sanction of the local Government is necessary under any of the said Acts, and in respect of the regulation of the salaries of Officers appointed under any of the said Acts, the Commissioners shall, before making application to Government, submit a plan of the work or a Schedule of the salaries for the approval of the Justices. When any such plan or Schedule is disapproved by the Justices, the Commissioners, if they see fit, may refer the matter for the decision of the Governor in Council.

X. An annual rate of five per centum of the annual value shall be imposed upon houses, buildings, and lands in the said Town, and shall be payable by the owners thereof in quarterly instalments. Provided that it shall be lawful for the Governor in Council, on the representation of the Justices, to fix, from time to time, in lieu of the said annual rate of five per centum, any higher annual rate not exceeding seven and a half per centum: Any rate so fixed shall be published in the Government Gazette before the commencement of the year in which such rate is to have effect.

XI. Religious edifices, and buildings devoted to charitable purposes, and temporary buildings occupied by European and Native Officers and Soldiers in the service of Her Majesty or of the East India Company doing Regimental duty in the Garrison of Bombay, shall not be liable to the rate.

XII. Buildings owned by Government shall be exempt from the rate so long as the sum of thirteen thousand Rupees, now annually paid by Government in lieu thereof, shall continue to be so paid.

XIII. The Commissioners

ACT No. XXV of 1858.

XIII. The Commissioners may exempt from assessment any house, building, or land, the annual value whereof is less than twenty-four Rupees, if the same be the sole rateable property of the owner.

Power to exempt small holdings.

XIV. When any house shall have been vacant for sixty consecutive days during any year, the Commissioners shall remit so much of the rate for that year as may be proportionate to the number of days the said house may have remained unoccupied; provided that the owner of such house, or his agent, shall have given notice in writing of the vacancy thereof to the Commissioners, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

Remission on account of vacant houses.

XV. A tax shall be imposed on all carriages, carts, hackeries, horses, ponies, and mules kept within the said Town, and upon all carts and hackeries plying for hire within the said Town or let for hire and used within the said Town and kept at any place beyond the limits thereof, at the following rates; and shall be payable quarterly by the owners or persons having charge of the same:—

Tax on vehicles and animals.

		<i>Rates per quarter.</i>	
		Rs.	As.
On every four-wheeled carriage on springs,...	... ..	3	0
On every two-wheeled carriage on springs, except native hackeries,	...	2	4
On every native hackery on springs used for riding in, and drawn by bullocks,...	... ..	7	8
On every native hackery not on springs,	... ..	4	8
On every labor-cart and labor-hackery not on springs, and drawn by bullocks, and having wheels with tires of the breadth of 2½ inches and upwards,	... ..	0	12
On every labor-cart and labor-hackery not on springs, and drawn by bullocks, and having wheels with tires less in breadth than 2½ inches,	...	2	4
On every horse, pony, or mule of the height of 12 hands or upwards,	...	7	8

XVI. Provided that the several vehicles and animals hereinafter mentioned shall be exempt from the tax, namely:—

Exemption of certain vehicles and animals.

Gun-Waggons.

Cavalry Horses, and Horses of the mounted Police.

Horses

ACT No XXV OF 1858.

Horses belonging to Officers doing Regimental duty at the Presidency, at the rate of one horse for each Officer.

Conservancy Carts, Horses, Ponies, and Mules belonging to the Commissioners.

Vehicles and animals kept for sale and not used for any other purpose, if kept by *bonâ fide* dealers in such vehicles and animals.

XVII. Every person who may have owned or had charge of any vehicle or animal kept within the said Town for any portion of a quarter shall be liable to the whole tax for that quarter.

What constitutes liability to the tax for a whole quarter. Proviso. Provided that, in case any such person has kept or had charge of any vehicle or animal for a period less than thirty days, the Commissioners may remit any portion of the tax payable in respect of such vehicle or animal not exceeding two-thirds of the tax for the quarter.

XVIII. If a carriage shall have been under repair at a carriage-maker's for the whole period contained in any quarter, no tax shall be leviable in respect of such carriage for that quarter.

Carriages under repair.

XIX. The Commissioners, at their discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the taxes specified in Section XV.

Commissioners may compound with livery stable-keepers & others.

XX. Every carriage kept and let out for hire within the said Town ; and every cart and hackery kept and used within the said Town ; and every cart and hackery plying for hire within the said Town, or let out for hire and used within the said Town, and kept at any place beyond the limits thereof—shall be registered in the Office of the Commissioners with the name and residence of the owner ; and shall bear, in such manner as the Commissioners shall direct, the number of such registration. The registration shall be made and the numbers assigned annually, upon such day in each year as the Commissioners shall appoint. Any person becoming possessed, within the year, of any such carriage, cart, or hackery,

Registry and numbering of hired carriages.

ACT No XXV of 1858.

hackery which has not been registered, may obtain registration on application to the Commissioners at their Office. When any registered carriage, cart, or hackery is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

XXI. Whoever keeps any carriage, cart, or hackery required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding ten Rupees ; and the Commissioners, or any Officer duly authorized by them, may seize or cause to be seized any such carriage, cart, or hackery (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods), together with the horses, bullocks, or other animals drawing the same, and may deliver them over to the Police ; and all Police Officers are hereby required, on the application of the Commissioners or their Officer as aforesaid, to seize and detain the same. If the carriage or other vehicle as aforesaid be not claimed, or if the fine be not paid within ten days, such carriage or vehicle, together with the animals seized with it, may be sold by auction by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale ; and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Municipal Commissioners.

XXII. Duties, at the rates specified in the Schedule annexed to this Act, shall be levied in respect of the several things therein mentioned when imported from any place into the Town of Bombay and intended for consumption or use therein. The said Duties shall be called the Town-Duties, and shall be leviable in addition to any Customs-Duties prescribed by law.

XXIII. The said Town-Duties shall be levied and collected by and under the management of the Commissioner of Customs of Bombay and his subordinate Officers, who shall have the same powers for collecting and enforcing payment of the said Town-Duties as they now have or shall have in respect of Customs-Duties ; and such Commissioner and his subordinate Officers shall have the same privileges and

ACT No XXV of 1858.

and be subject to the same liabilities in respect of anything done by them in collecting and enforcing payment of the said Town-Duties under this Act, as they now have or are subject to under the provisions of any Act in force relating to the said Customs.

XXIV. All monies received by the Commissioner of Customs on account of the Town-Duties shall from time to time, after deducting the charges of collection, be paid into the General Treasury to the credit of the Municipal Commissioners.

Town-Duties to be paid into the Treasury.

XXV. The Governor of Bombay in Council shall have power from time to time to make rules for keeping the accounts of the said Town-Duties, and from time to time to alter or revoke the same ; and may by such rules direct what books, accounts, and statements shall be kept by the Commissioner of Customs and at the General Treasury in relation to the said Town-Duties. The Governor in Council may also from time to time fix the charges which the Commissioner of Customs shall be entitled to deduct for the necessary expenses of collecting the said Town-Duties and accounting for the same.

Power to make rules for keeping accounts.

XXVI. All monies received by the Commissioners or paid to their credit by virtue of this Act or of Act XIV of 1856 or of any other Act or Regulation, and all fines and penalties imposed and levied by the Court of Petty Sessions or by any Magistrate of Police or Justice of the Peace within the said Town, and all sums of money collected on account of fees for licenses granted under Act V of 1842, or Section XIII, Chapter II, Regulation XIX. 1827 of the Bombay Code, shall form a Fund which shall be called the Municipal Fund of Bombay.

Municipal Fund.

XXVII. All charges and liabilities duly incurred for Municipal purposes, and which would, but for the passing of this Act, be payable from the Municipal Fund as constituted under the provisions of Act XI of 1845, shall be paid from the Municipal Fund constituted under the provisions of this Act.

Charges previously incurred for Municipal purposes to be borne by present Municipal Fund.

XXVIII. The Municipal Fund shall be under the direction and management of the Commissioners, who shall submit quarterly, for the information of the Justices, an account of all sums paid into, and disbursed from, the said Fund. Subject to the deductions

Management and application of Municipal Fund.

ACT No XXV of 1858.

ductions and appropriations hereinafter mentioned, the said Fund shall be applied to the purposes of this Act and the Incorporated Act and of Act XIV of 1856, and to the execution of any public works tending to the improvement of the said Town which may be sanctioned by the Governor in Council, although not expressly mentioned in any of the said Acts.

XXIX. From and out of the Municipal Fund, an annual sum, bearing
Contribution to the .the same proportion to the annual expenses of the Police of
annual expenses of the the Town of Bombay as the sum of forty-five thousand
Police. Rupees bore to the annual expenses of the Police aforesaid
(namely, one hundred and sixty-seven thousand five hundred and fifty-three
Rupees) at the period of the passing of Act XI of 1845, shall in the first
instance be deducted and paid by equal monthly instalments and carried to the
credit of the Governor in Council in the General Treasury, to be applied by the
Governor in Council for and on account of the expenses of the Police of the
Town of Bombay.

XXX. The Commissioners shall pay to the Governor in Council out of the
Annual payment on Municipal Fund an annual sum not less than one hundred
account of Water- and seventy-five thousand Rupees on account of the expense
works. which has been or may be incurred by Government in the con-
struction of the works called the Vihar Water-works; and such annual payment
shall continue to be made until the whole of the expense so incurred (except
such portion thereof, if any, as shall be defrayed by Government out of the
public revenue), with interest thereon at the rate of four per centum per annum,
shall have been repaid. The Commissioners shall also pay to the Governor in
Council in each year such further sum as shall be equal to the cost of the
maintenance of the said works during the preceding year.

XXXI. The Commissioners shall, until such a complete system of sewer-
Annual payment on age and drainage within the said Town as shall be agreed
account of Drainage- upon between the Governor in Council and the Bench of
works. Justices, shall have been completed and all the expenses
thereof defrayed, and all monies borrowed for the payment of such expenses
and interest thereon shall have been re-paid, set apart for the purposes above-
mentioned, out of the Municipal Fund, an annual sum not less than two hundred
and fifty thousand Rupees. If such system of sewerage and drainage has
been completed, and all the expenses thereof defrayed, and all monies borrowed
for the payment of such expenses and interest thereon have been re-paid,
before

ACT No. XXV of 1858.

before the expenses incurred by Government for the construction of the said Vehar Water-works shall have been re-paid, the said annual sum of two hundred and fifty thousand Rupees shall be added to the sum of one hundred and seventy-five thousand Rupees directed by the preceding Section to be appropriated annually to the re-payment of the expenses of the said-works.

XXXII. Whenever the Commissioners shall have incurred any expenses in the execution of any of the works which, under Sections XXIV, LI, and LIII of the said Act XIV of 1856, the owners of any premises, houses, or buildings are required to execute, the Commissioners may either recover the amount of such expenses in the manner therein provided, or, if they think fit, may take engagements from the said owners for the quarterly payment of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of six per centum per annum, within a period not exceeding five years ; and such sums, when due, may be recovered by the same process by which rates may be recovered under the Incorporated Act.

Recovery of expenses incurred by the Commissioners in the execution of certain works required by Act XIV of 1856 to be executed by the owners of property.

SCHEDULE.

Rates of Town-Duty to be charged upon the following articles imported into Bombay.

NAMES OF ARTICLES.	RATE.
	Rs. As. P.
Cows, Calves, Oxen, and Buffaloes, each	0 8 0
Sheep, Lambs, Goats, and Kids, „	0 2 0
Ghee, per maund	0 6 0
Grain of all sorts, per candy	0 4 0
Chunam, on value to be fixed from time to time by the Commissioner of Customs, with the sanction of Government,...	5 0 0 per cent.
Timber, on market-value at the time of import,	5 0 0 per cent.
Wood, Fire-wood, per candy	0 2 0

ACT No. XXVI OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 7th July 1858.)

An Act to make further provision for the trial and punishment of Offences against the State.

WHEREAS it is expedient to make further provision for the trial and punishment of offences against the State; It is enacted as follows :—

Preamble.

I. If any person, owing allegiance to the British Government, shall collect men, arms, or ammunition, or otherwise prepare to levy war, with the intention of either levying or being prepared to levy war against the Queen or the East India Company, or shall instigate any other person to commit such offence, or shall knowingly aid in the commission thereof, such person shall be liable to the punishment of death, or to the punishment of transportation for life or of imprisonment with hard labor for any term not exceeding fourteen years; and shall also forfeit all his property and effects of every description.

Collecting arms, &c., with the intention of levying war against the State.

II. Whoever shall knowingly harbour or conceal any person who shall have been guilty of any of the offences mentioned in the Preceding Section, shall be liable to imprisonment, with or without hard labor, for any term not exceeding seven years; and shall also be liable to fine.

Harbouring or concealing offenders.

III. If

ACT NO. XXVI OF 1858.

III. If any person, having knowledge of the commission of any of the offences mentioned in Section I Act XI of 1857 or in Section I of this Act, shall conceal the fact or shall neglect to declare and make known the same to the Governor General in Council, or to the Executive Government of the Presidency or place, or to the Magistrate or person exercising the powers of a Magistrate in the District in which such offence shall be committed or such person shall be, he shall be liable to imprisonment, with or without hard labor, for a term not exceeding seven years ; and shall also be liable to fine.

Person having knowledge of the commission of certain offences, and neglecting to give information.

Certain provisions of Acts XI and XIV of 1857 and XXII of 1858 made applicable to offences specified in this Act.

IV. All the provisions of Acts XI of 1857, XIV of 1857, and XXII of 1858, applicable to offences included in Sections I and II Act XI of 1857, shall be applicable to the offences specified in this Act.

Act not to extend to British-born subjects or their children.

jects.

V. Nothing in this Act contained shall extend to the trial or punishment of any of Her Majesty's natural born subjects born in Europe, or of the children of such sub-

Duration of Act.

VI. This Act shall continue in force until the end of the year 1859.

ACT No. XXVII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 27th July 1858.)

An Act to continue in force for a further period of six months Act IV of 1858, for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

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 six months ; It is enacted as follows :—

Preamble.

Act IV of 1858 continued for six months.

I. Act IV of 1858 shall continue in force for the period of six months from the 30th day of July 1858.

ACT No. XXVIII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 31st July 1858.)

An Act for the maintenance of a Police Force for the Port of Madras.

WHEREAS it is expedient to make further provision for the security of the traffic between the shore and the shipping in the Port of Madras, by increasing the Police Force ; and whereas it is just and expedient that the said traffic should contribute towards the expenses and maintenance of the said Force ; It is enacted as follows :—

I. To meet the expense of such an increase to the Police Force, established under the provisions 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*) as may be necessary for the purposes of this Act, the sum of three annas shall be charged and taken by the owner of every boat employed to convey cargo or goods to or from any ship or vessel in the Port of Madras, in addition to the hire payable under Act IV of 1842 (*for the better management of boats and catamarans in the Madras Roads and for the amendment of certain Harbour Regulations*).

Additional charge on the hire of boats carrying cargo or goods.

II. The

ACT No. XXVIII of 1858.

II. No cargo or goods of any description shall be conveyed in any boat to or from any ship or vessel in the Port of Madras unless accompanied by an Officer of the Police Force, and it shall be the duty of the Commissioner of Police to provide every such boat with an Officer of the Police Force for this purpose.

No cargo to be conveyed, unless boat be accompanied by a Police Officer.

III. The owner of any boat and the tindal and boatmen for the time being employed in any boat in which any cargo or goods shall be conveyed to or from any ship or vessel in the Port of Madras without having an Officer of the said Force on board of such boat, and every boat-owner, tindal, and boatman who shall either hinder any such Officer from accompanying any such boat or shall obstruct him in the performance of his duty when in any such boat, shall, on conviction before a Magistrate, be liable as follows : every boat-owner for the first offence to a penalty not exceeding fifty Rupees, and for a second or any subsequent offence to a penalty not exceeding one hundred Rupees; every tindal for the first offence to corporal punishment not exceeding twenty stripes of a rattan, and for a second or any subsequent offence to corporal punishment not exceeding twenty-five stripes of a rattan ; and every boatman for the first offence to corporal punishment not exceeding fifteen stripes of a rattan, and for a second or any subsequent offence to corporal punishment not exceeding twenty stripes of a rattan.

Penalties.

IV. Every boat-owner shall on every Monday make to the Commissioner of Police, or to such other person as the said Commissioner of Police shall appoint to receive the same, a return in writing, signed by such boat-owner, of the number of trips made by each of his boats on each day during the preceding week.

Owner to make a weekly return of trips.

V. Every boat-owner who shall neglect to make such return as in the next preceding Section specified, shall, on conviction before a Magistrate, be liable for a first offence to a penalty not exceeding fifty Rupees, and for a second or any subsequent offence to a penalty not exceeding one hundred Rupees; and every boat-owner who shall make a false return shall be liable to a penalty not exceeding three hundred Rupees, and to the forfeiture of all licenses which he may hold under the provisions of Act IV of 1842.

Penalty for neglecting to make return, and for making false return.

VI. Every

ACT No. XXVIII OF 1858.

VI. Every boat-owner shall on every Monday pay to the said Commissioner of Police, or to such other person as the said Commissioner of Police may appoint to receive the same, the said sum of three annas for every trip made by any boat belonging to him, employed in conveying cargo or goods, according to the weekly return to be made by him as hereinbefore directed; and in default of such payment, one or more of the boats of any boat-owner making such default may be seized and sold by virtue of a warrant under the hand and seal of a Magistrate until the amount so due by such boat-owner and the expenses of sale shall be realized; and such amount, when realized, shall be forthwith paid to the said Commissioner of Police.

Boat-owner to pay weekly to the Commissioner of Police the sums charged under this Act.

Monies received under this Act to be paid into the General Treasury.

Fort Saint George.

VII. All monies paid to or received by the said Commissioner of Police under this Act shall be paid by him, at least once a month, into the General Treasury of

VIII. No conviction, order, or judgment of any Magistrate under this Act 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. Form of conviction, &c.

IX. None of the foregoing provisions of this Act shall be taken or deemed to extend or apply to any boat which shall convey only mails or passengers with their baggage to or from any ship or vessel in the Madras roads.

Act not to apply to boats conveying only mails or passengers with their baggage.

X. From and after the passing of this Act it shall be lawful for the Commissioner of Police and the Members of the Police Force at Madras to exercise, within the limits of the Port of Madras as defined under the provisions of Act XXII of 1855 (*for the regulation of Ports and Port-dues*), all powers given

Powers &c. of the Commissioner of Police and the Police Force within the Port of Madras.

ACT No. XXVIII OF 1858.

given to them respectively by Act XIII of 1856, or which may be lawfully exercised by Constables within the local limits of the jurisdiction of the Supreme Court ; and all provisions of the last mentioned Act applicable to the said Commissioner and Police Force at Madras shall apply to them respectively in the execution of the powers hereby given.

XI. This Act shall take effect from and after such day as shall be notified in the Official Gazette by the Governor in Council of Fort Saint George.

When this Act shall take effect.

ACT No. XXIX of 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 31st July 1858.)

An Act for the relief of persons who, in consequence of the recent disturbances, have been prevented from instituting or prosecuting suits or appeals in the Civil Courts of the North-Western Provinces within the time allowed by law.

WHEREAS, during the recent disturbances, many of the Civil Courts in the North-Western Provinces were compelled to suspend their sittings for considerable periods; and whereas, during this interval, the time allowed by law for instituting and prosecuting original suits and appeals has in many cases expired, and it is proper to provide relief for the plaintiffs and appellants in such cases; It is enacted as follows:—

I. Whenever, subsequently to the 10th May 1857, the sittings in any Civil Court in the North-Western Provinces may have been suspended in consequence of the disturbed state of the country, it shall be competent to such Court to receive and try, or to re-admit any original suit or appeal within its jurisdiction, in which the period allowed by law for instituting or prosecuting the same may have expired during the time that the sittings of such Court were so suspended, provided that the plaintiff or appellant, according as the case may be, shall present

Further time allowed for instituting or prosecuting certain suits and appeals in consequence of the suspension of the sittings of the Civil Courts.

ACT No. XXIX OF 1858.

sent his petition of plaint or appeal, or, if the suit or appeal shall have been previously instituted but shall have abated for want of prosecution, shall make an application for the re-admission of the same within the period of three months from the date on which the principal Civil Court of original jurisdiction in the District shall issue a proclamation, copies of which shall be affixed in some conspicuous place in the several Courts and in the Office of the Collector and Magistrate of the District, notifying that the Courts of the District, or such of them as it is intended to re-establish, have resumed their sittings.

II. In like manner any Civil Court in the North-Western Provinces may receive and try, or re-admit any original suit or appeal in which the period allowed by law for instituting or prosecuting the same may have expired subsequently to the said 10th May 1857, if it shall appear to the satisfaction of such Court that the plaintiff or appellant in such suit or appeal was precluded from instituting or prosecuting it within the limited period, owing to the disturbed state of the country whereby access to such Court was rendered dangerous or difficult, provided that the plaintiff or appellant, according as the case may be, shall present his petition of plaint or appeal, or, if the suit or appeal shall have been previously instituted but shall have abated for want of prosecution, shall make an application for the re-admission of the same within three months from the passing of this Act or from the time when the cause above stated shall cease to exist.

III. If the application be for the admission of a special appeal, the appellant may present his application either in the Sudder Court, or in the Court from whose decision the appeal is made for transmission to the Sudder Court.

Application for admission of special appeals to whom to be presented.

IV. The petition of plaint or appeal in any original suit or regular or special appeal falling within the provisions of this Act, which may be instituted, for the first time, under Section I or Section II, shall be written on stamp paper of the value prescribed for regular suits and appeals; but an application for the re-admission of an original suit or appeal, which shall have been previously instituted but shall have abated for want of prosecution, may be written on plain paper.

Stamps in, what cases necessary.

V. No

ACT No. XXIX of 1858.

V. No original suit or appeal, which may have been instituted or re-admitted in any Civil Court in the North-Western Provinces subsequently to the said 10th May 1857, shall be liable to be dismissed, nor shall any decision passed in any such suit or appeal be reversed on the ground that at the date of its institution the period allowed by law for the admission of the suit or appeal had expired, or that the suit or appeal had abated for want of prosecution (according as the case may be) ; if, at the time the period allowed by law for instituting or prosecuting such suit or appeal expired, the sittings in the Court by which it was cognizable, or in which it was pending were suspended, or access to such Court was rendered dangerous or difficult by reason of the disturbed state of the country.

VI. For the purposes of this Act, the certificate of the Zillah Judge that the sittings in any Court within his jurisdiction were suspended, or that access to any such Court was rendered dangerous or difficult, owing to the disturbed state of the country during any particular period, shall be deemed conclusive evidence of the fact.

VII. This Act may be extended by the Governor General in Council, or by the Executive Government of any Presidency or place, to any District within the limits of their respective jurisdictions.

ACT No. XXX OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th August 1858.)

An Act to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic.

WHEREAS by Act I of 1844 it is enacted that no writ or process shall at any time be sued forth or prosecuted against the person, goods, or property of His Highness the Nabob of the Carnatic, or of such other person as therein mentioned, unless such writ or process shall be so sued forth with the consent of the Governor in Council of Fort Saint George first had and obtained as therein mentioned; and that any writ or process which shall at any time be sued out or prosecuted against the person or goods or property of His Highness or of any such person without such consent, shall be utterly null and void; and whereas the Nabob died leaving debts and liabilities to a large amount unsatisfied, some of which were contracted by himself and some by Azeem Jah Bahadoor as Nabob Regent or Naib-i-Mooktar during the infancy of the late Nabob; and whereas it is doubtful whether the creditors of the Nabob have, without the consent of the Governor in Council of Fort Saint George, any remedy for enforcing their claims against the goods or property which belonged to the said Nabob at the time of his death; and especially whether any part of the property left by the said late Nabob, which was of the nature of State or Public property, is liable for the payment of such claims: and whereas the

Preamble.

East

ACT No. XXX of 1858.

East India Company is willing to give up any right which it has to any part of such property which is in the nature of State or Public property, and to allow the whole property, moveable and immoveable of whatever kind, left by the late Nabob, after appropriating to the payment of his debts such portion thereof as is liable to the payment thereof, to be applied towards making provision for the family and dependents of the late Nabob : and whereas the said East India Company is also willing to pay in full, to such of the creditors as shall be willing to accept the same, in the manner herein mentioned, all such debts as shall be proved to have been fairly and justly contracted by the said Nabob or on his behalf during his infancy by the said Azeem Jah as Nabob Regent, such debts to be estimated in respect of moneys at the amounts which may be proved to have been actually advanced or paid by such creditors respectively, and in respect of goods supplied or other matters at the amount which shall be proved to have been the fair and actual value thereof at the time when such debts were incurred, together with interest on such debts at a rate not exceeding six per centum per annum, the property of the said Nabob being applied in the first instance for that purpose, but any deficiency therein being made good by the said East India Company : and whereas the said Nabob is alleged to have mortgaged and created divers liens and securities upon certain portions of his property, of which or some of which the validity and extent of operation, especially as against the creditors of the said Nabob, is doubtful, and it may also be doubtful whether the same can be enforced in any of the ordinary Courts of Justice; and it is expedient that provision should be made for giving effect to the said mortgages, liens, and securities so far as the same shall have been created *bond fide* and for valuable consideration, and for affording a simple mode of ascertaining the rights of the parties claiming under such mortgages, liens, and securities: and whereas it is also alleged that various conveyances, deeds, and instruments have been executed by the late Nabob without valuable consideration in favor of persons who have under color thereof executed or created mortgages or assignments of, or securities or liens on the property comprised therein : and whereas it is expedient that provision should be made for investigating all such claims, and for protecting the *bond fide* creditors of the said Nabob from the effect of any conveyances executed by the Nabob under such circumstances as rendered them void as against such creditors, and for affording a simple mode of ascertaining the rights of the parties claiming in respect

ACT No. XXX of 1858.

pect thereof as well as of parties claiming to be creditors of the Nabob: It is enacted as follows :-

I. The Governor in Council of Fort Saint George shall, immediately after the passing of this Act, appoint such person as he may think fit to act under the orders of the Supreme Court of Judicature at Madras in the administration of the property of whatever nature left by the said late Nabob. The person so appointed shall be designated "The Receiver of the Carnatic property," and shall have power to collect and take possession of all such property, and shall hold the same according to the provisions of this Act; and shall give such security (if any) as the said Governor in Council may require.

Appointment of person, designated Receiver of Carnatic property, to administer the estate.

II. The said Receiver shall be entitled to receive such commission, not exceeding five per centum upon the amount or value of the property collected by and distributed under the provisions of this Act, as the said Governor in Council shall appoint, which commission shall be charged to the estate.

Remuneration of Receiver.

III. The Governor in Council shall have full power to suspend or remove any person appointed such Receiver as aforesaid, and also from time to time to fill up any vacancy in such office which may be occasioned by death, retirement, suspension, or removal.

Suspension, removal, &c., of Receiver.

IV. Such Receiver shall represent the estate of the said late Nabob in all proceedings relating thereto under this Act or otherwise, and shall do and perform all acts in performance of his duties or office under his official designation, and in all proceedings whether at law or in equity he shall be so styled and designated; and no proceedings in which the Receiver may be a party shall abate by reason of the death, retirement, suspension, or removal from office of any such Receiver, but the same shall be continued and carried on by his successor as if no such death, resignation, suspension, or removal had occurred.

Receiver to represent the estate in all proceedings.

V. The

ACT No. XXX OF 1858.

V. The Receiver shall have full power to collect, take possession of, and get in all property, moveable or immovable and whether of the nature of State or Public property or not, to which the said late Nabob at the time of his death was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob; and, if necessary, to sue for and recover the same as representing the said estate of the said Nabob under this Act, and to realize by sale or otherwise the value of the said property: and he shall proceed to collect and take possession of the same with all convenient speed immediately after the passing of this Act.

Receiver to collect, sue for, and take possession of the property.

VI. Whenever the Receiver, by the order or with the sanction of the Court, shall sell any immovable property to which the Nabob was entitled either at law or in equity at the time of his death, or which is liable either at law or in equity to satisfy the debts of the said late Nabob, he shall execute a conveyance thereof to the purchaser; and such conveyance shall be valid and effectual and give a good title as against the heirs of the said Nabob, and all persons claiming under them, and also as against all persons claiming under the said Nabob by virtue of any conveyance or instrument declared by the said Court to be void as against the creditors of the said Nabob, or by virtue of any mortgage or security, the benefit of which has been barred under the provisions of this Act.

Receiver selling immovable property with the sanction of the Court, may execute conveyance thereof to purchaser.

Effect of such conveyance.

VII. Upon a suit being instituted as hereinafter mentioned, the said Receiver shall be deemed subject to the orders of the said Court, and so far as such orders shall not extend, to the general practice of the said Court in the same manner as any other Receiver specially appointed by the said Court, except that he shall not be called upon by the said Court to give security.

Upon a suit being instituted under this Act, Receiver to be subject to the orders of the Court.

VIII. It shall be lawful for any creditor or person interested in the proper administration of the estate and effects of the said Nabob, to apply for and obtain in a summary way, in the manner provided by Act VI of 1854, upon a summons to be served upon the said Receiver,

Suit for administration of estate.

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Special directions to be given as to creditors holding mortgages or other securities.

Receiver, an order for the administration of the estate and effects of the said Nabob ; and such order, in addition to the ordinary directions contained in the usual order for the administration of the moveable and immoveable estate of a deceased Mahomedan, shall direct that all creditors who may hold any mortgage or security upon any part of the property mentioned in Section V of this Act shall come in and prove their claims and establish their securities and the consideration for the same, or in default thereof that they shall be barred and excluded from all benefit of their said securities ; and the said Court shall also by the said order give such directions as to the notices to be issued to such creditors and otherwise, and shall direct such enquiries, as to the Court shall seem fit.

IX. Upon such order being made, the Court shall take an account of all debts and liabilities which were due from the said Nabob at the time of his death, and also of all property, moveable or immoveable and whether of the nature of State or Public property or not, to which the said late Nabob at the time of his death was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob ; and shall also determine whether any and which of the said creditors had any and what mortgage or security upon any and what portion of the property of the said Nabob, and for any and what consideration or amount, and whether such mortgage or security constituted a valid charge upon the whole or any and what portion of the property included therein.

Accounts to be taken by the Court—
of the debts,
property,
and mortgages.

X. Every creditor of the said Nabob, who shall not come in and establish his claim under and according to the said order, shall be barred from all benefit of the said claim ; and all persons who may hold or claim under any mortgage or security as aforesaid, who shall fail to come in and establish the same and (if required by the Court so to do) to prove the consideration for the same under and according to such order, shall be barred from all benefit of such mortgage or security ; and the said Court may order the property affected thereby to be delivered up to the said Receiver.

Creditor or mortgagee not coming in to establish claim or mortgage, to be barred from all benefit thereof.

XI. In

ACT No. XXX of 1858.

XI. In case it shall appear to the satisfaction of the Court that there is good reason to believe that any conveyance or other instrument executed by the said late Nabob in his lifetime was executed under circumstances which rendered the same void as against creditors, the said Court may, at any time pending the suit, order the person or persons claiming under such conveyance or instrument to come in and establish his claim under the same; and in default of compliance with the said order, the said Court may declare the said conveyance or instrument to be void as against the creditors of the said Nabob, and may order the property thereby conveyed to be delivered up to the said Receiver.

Court may order a person claiming under a conveyance executed by the Nabob under circumstances rendering the same void as against creditors, to come in and establish his claim.

XII. In case it shall appear to the satisfaction of the Court that there is good reason to believe that any property was conveyed by the said Nabob in his lifetime to any person or persons in order that he or they might raise money thereon for the use of the said Nabob, the said Court may declare that, subject to any mortgages or securities which may have been *bona fide* created thereon, the said property is part of the estate of the said Nabob and shall be administered accordingly, and may also order all persons who may hold or claim under any mortgage or security executed by the person or persons to whom the said property was so conveyed by the said Nabob to come in and prove their claims and establish their securities and the consideration for the same, or in default thereof that they shall be barred and excluded from all benefit of their said securities; and the said Court shall also by the said order give such directions as to the notices to be issued to such creditors and otherwise, and shall direct such enquiries as to the Court shall seem fit; and all persons who may hold or claim under any mortgage or security executed by or on behalf of the person or persons to whom such property was conveyed as aforesaid, who shall fail to come in and establish the same and (if required by the Court so to do) to prove the consideration for the same under and according to such order, shall be barred from all benefit of such mortgage or security; and the said Court may order the property affected thereby to be delivered up to the said Receiver.

Property conveyed by the Nabob for the purpose of raising money for his use, may be declared part of his estate subject to *bona fide* mortgages created thereon.

Mortgagees, &c. of such property to come in and establish their mortgages.

Notices to be issued.

Persons holding under such mortgages, who fail to come in and establish their claims, shall be barred from all benefit thereof.

XIII. No

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XIII. No action or suit shall be commenced or prosecuted by any creditor of the said Nabob against any person as the representative of the said Nabob, otherwise than in accordance with the provisions of this Act; and all actions and suits, which at the time of the commencement of this suit shall be pending at the suit of any such creditor against any person as representative of the said Nabob, shall abate; the costs of such suit, if the said Court shall consider it reasonable, to be paid out of the assets of the said late Nabob.

XIV. Any person claiming to be a creditor of the said late Nabob, who within the period of three months from the passing of this Act shall file in the Office of the Registrar of the said Supreme Court a written declaration stating that he is willing to receive in full discharge of all his claims against the said late Nabob or any property to which the said late Nabob at the time of his death was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob, such amount as shall be ascertained by the said Supreme Court to have been justly and fairly due to him from the said late Nabob at the time of his death or to be a charge upon such property and to remain unpaid (the amount to be estimated in respect of moneys at the amount which shall be proved to have been actually advanced to or paid for the use of the said Nabob, and in respect of goods supplied or other matters at the amount which shall be proved to have been the fair and actual value thereof at the time when such debts were incurred) together with such interest (if any) not exceeding the rate of six per centum per annum as shall be awarded by the said Court; and that he is willing to give up any mortgage or security which he may hold upon any part of such property as aforesaid, or which shall have been charged with the said debt—shall be entitled, upon giving up such mortgage or security to the said Receiver, to have the amount of his claim ascertained by the said Court in manner hereinafter mentioned.

XV. When any sum of money shall have been paid by the said Nabob in his lifetime in specific discharge of interest at a higher rate than six per centum per annum, such payment shall not be re-opened or questioned; but interest at the reduced

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From what period interest at the rate of 6 per cent. shall be calculated, reduced rate of six per centum per annum (as by this Act provided) shall be calculated from the period up to which interest shall have been specifically discharged by any such payment by the said Nabob.

XVI. No person claiming to be a creditor of the said late Nabob or in respect of any property whatsoever to which the said late Nabob was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob, shall be entitled to avail himself of the provisions of Section XIV in respect of a part only of his claims upon the said late Nabob or upon any such property as aforesaid.

Creditor not entitled to make special application in respect of a part only of his claims.

XVII. No assignment of any such claim as aforesaid upon the said late Nabob or upon any property whatsoever to which the said late Nabob was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob, shall be or be deemed to be valid or effectual if made or executed subsequently to the date of the passing of this Act, or if made or executed since the death of the said late Nabob, unless proved to have been made *bona fide* and for a valuable consideration, the proof whereof shall lie upon the person claiming under such assignment.

No assignment of such claims to be valid, if made after passing of this Act, or since the Nabob's death, unless made *bona fide* and for valuable consideration.

XVIII. Every person claiming to be a creditor of the said late Nabob in respect of any security commonly called and known as an Istufa Cutcherry Bond issued by order of the said late Nabob in discharge of or connected with the debts of Moomtaucool Moolk Bahadoor otherwise called Ghoolam Moortaza Khan Bahadoor, shall be deemed a creditor of the Nabob within the meaning of Section XIV of this Act.

Persons claiming in respect of Istufa Cutcherry Bonds to be deemed creditors of the Nabob within the meaning of Section XIV of this Act.

XIX. The said Court, upon the application of such creditor, shall appoint a day for ascertaining the amount of his debt, and notice of the day so appointed shall forthwith be given by the applicant to the Solicitor of the

Court, upon application, to fix a day for the investigation, and to give notice thereof to the Company's Solicitor at Madras.

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the East India Company at Madras. The day so appointed shall not be less than twenty-one days from the time of the application.

XX. At the time of giving such notice, the creditor shall also furnish to the said Solicitor full particulars of his claim. If the particulars so furnished are insufficient, the said Court or a Judge thereof may make an order for further particulars. In case any such order be made, the Court shall not proceed to investigate the claim until fourteen days from the time when sufficient particulars have been furnished, and if necessary shall appoint a further day for the hearing.

XXI. At any time not less than seven days before the hearing, the Government may give notice to the claimant that it is willing to consent to an order for the payment of an amount to be specified in the notice in full discharge of what is justly and fairly due.

XXII. Upon the day so fixed or upon any other day to which the Court may think fit to postpone the investigation, the Court, after proof of the service of the notice required by Section XIX of this Act, shall proceed to ascertain and determine in a summary way what amount is justly and fairly due from the estate of the said Nabob at the time of his death to the claimant, whether the debt be payable by instalments or not and whether or not the day or days fixed for the payment thereof shall have arrived. In ascertaining such amount, the said Court shall not allow to any person claiming to be a creditor, in respect of money lent or advanced, any larger sum than the amount which shall be proved to have been actually advanced to or for the said late Nabob, or, in the case of such Istufa Cutcherry Bonds as aforesaid to or for the said Ghoolam Moortaza Khan Bahadoor, together with simple interest thereon not exceeding the rate of six per centum per annum (to be calculated up to the date of the order for payment), notwithstanding any higher rate of interest may have been agreed to be paid; and shall not allow to any person claiming to be a creditor, in respect of

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of goods supplied or of any other matters, any larger sum than the amount which shall be proved to have been the fair and actual value thereof at the time when such debt was incurred by or on behalf of the said late Nabob, or, in the case of such Istufa Cutcherry Bonds as aforesaid by or on behalf of the said Ghoolam Moortaza Khan Bahadoor, without reference to the price or sum which may have been agreed to be paid for or in respect thereof, together with simple interest thereon not exceeding the rate aforesaid, if the Court shall consider that the claimant is entitled to recover interest.

Court to order payment of amount so ascertained, with costs.

The said Court shall issue an order for the payment of the amount so ascertained to be due, together with the costs of proving the debt if it shall think fit to award costs. Provided that, if the amount so ascertained to be due shall not exceed the amount specified in the notice (if any) given under Section XXI, the Court shall not award costs to the claimant.

XXIII. For the issue of subpoenas or other process, for preparing orders of payment, or for any other business connected with the Court, of ascertaining the amount of any debt or claim under the last preceding Section, the Officers of the said Court shall be entitled to charge the like fees as would be chargeable in an ordinary suit in the said Court for such debt or claim for business of a like nature, or such other fees as the Court with the sanction of the Governor in Council shall appoint in that behalf.

Upon every investigation, East India Company may appear by Counsel.

Claimant may appear in person, or by Counsel, or by Attorney, &c. Agent.

XXIV. Upon every investigation under Section XXII of this Act, the East India Company may appear and be heard by Counsel; and the claimant may appear in person or by Counsel or, if the Court shall think fit to allow the same, by Attorney or any other

XXV. The amount ascertained by the Court to be due to the claimant upon the investigation under Section XXII, together with such interest and costs (if any) as shall be awarded by the Court, shall be paid to the claimant by the said

Amount found due with interest and costs how to be paid.

Receiver

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Receiver within ten days after a copy of the order of the said Court shall have been served upon him. In case no sufficient assets belonging to the estate of the said late Nabob shall be in the hands of the Receiver to enable him to pay such amount, the same shall be forthwith paid out of the Public Treasury of the East India Company, and the said Company shall be entitled to be re-paid by the Receiver out of any assets which may afterwards come to his hands. The judgment of the Court as to the amount

Adjudication of amount to be *primâ facie* evidence of the debt in the administration suit.

due to such creditor as aforesaid for principal and interest shall, in taking an account of the debts and liabilities and of the estate and effects of the said Nabob in such administration suit as aforesaid, be treated as *primâ facie* evidence that a debt to that amount was due

to such creditor.

XXVI. If it shall appear that the amount paid out of the assets of the said Nabob to any such creditor or to the East India Company under the provisions of the last preceding Section, exceeds the amount which such creditor, independently

Provision if payment be made to a creditor under the preceding Section in respect of the amount receivable by him.

of the provisions of this Act, would have been entitled to receive out of the assets of the estate, the difference

between the amount so paid and the amount which would have been so receivable shall be made good by the East India Company, and shall be paid to the Receiver for the benefit of the persons interested in the estate.

XXVII. No action or suit shall be brought against the East India Company or any person for any thing done under the provisions of this Act, or for or by reason of any act,

No action in respect of certain things done under this Act, or before the passing thereof if done with the sanction of Government.

reasonable or proper, for the protection of any property, moveable or immovable and whether of the nature of State or Public property or not, to which the said

late Nabob at the time of his death was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob, or for realizing the assets thereof, which may have been done before the passing of this Act by any person under the orders or with the sanction of the said Governor in Council.

XXVIII. No

ACT No XXX of 1858.

XXVIII. No property shall be taken by the said Receiver out of the possession of any person mentioned in the list last published in the Government Gazette at Madras of persons entitled to privileges under the provisions of Act I of 1844, without the previous order of the said Governor in Council.

No property to be taken by the Receiver out of possession of privileged persons without the order of Government.

ACT No. XXXI OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th August 1858.)

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.

WHEREAS, for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying Revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land ; It is enacted as follows :—

Preamble.

I. When land added by alluvial accession to an estate paying Revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue authorities and the proprietor or proprietors, the Revenue assessed upon the alluvial land may be added to the jumma of the original estate ; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former jumma of the original estate. If the proprietor or proprietors object to such an arrangement, or if the Revenue authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled

In what case the Revenue assessed upon alluvial land may be added to the jumma of the original estate.

In what cases there shall be a separate settlement.

as

ACT No. XXXI of 1858.

as a separate estate with a separate jumma, and shall thenceforward be regarded and treated as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors, or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement. The separate settlement may be permanent, if the settlement of the original estate is permanent.

II. Nothing contained in the preceding Section shall affect the rights of any under-tenant in any alluvial land under the provisions of Rights of under-tenants in alluvial land. Clause I Section IV Regulation XI. 1825. It shall be the duty of all Officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation VII. 1822 ; and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate. The provisions of the said Regulation, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

III. Every separate settlement of alluvial land heretofore made shall be Separate settlements of alluvial lands heretofore made. as good and effectual for the purposes specified in Section I, as the same would have been if made subsequently to the passing of this Act. Proviso. Provided that nothing contained in this Act shall be held to affect the rights which any person may have acquired, under a judicial decision or otherwise, before the passing of this Act.

ACT No. XXXII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th August 1858.)

An Act for bringing the Fort of Tanjore and the adjacent territory under the Laws of the Presidency of Fort St. George.

Preamble, WHEREAS it is expedient to bring the Fort of Tanjore and the adjacent territory, which have lapsed to the East India Company in consequence of the death of the Rajah of Tanjore, under the general Laws of the Presidency of Fort St. George, and to make provision for the trial and determination of suits, appeals, and proceedings pending in any of the Courts established by the said Rajah ; It is enacted as follows :—

Fort of Tanjore and adjacent territory placed under the general Laws of the Madras Presidency.

Fort St. George.

No Court to try or determine any case respecting which a final decision has been pronounced by any of the Rajah's Courts before this Act comes into operation.

I. From and after the day when this Act shall come into operation, the Fort of Tanjore and adjacent territory shall be subject to the general Laws which are or shall be in force within the territories subject to the Presidency of

II. No Court shall try or determine any case, Civil or Criminal, with respect to which a final decision may have been pronounced before this Act shall come into operation by any of the Courts established by the said Rajah exercising jurisdiction within the said

ACT No. XXXII of 1858.

said Fort of Tanjore and adjacent territory at the time of the passing of this Act.

Decisions of such Courts in original Civil suits to be considered final, if no appeal is made within thirty days.

III. A decision passed by any such Court in an original Civil suit shall be considered as final, if no appeal have been or shall be made against it within thirty days after the decision was passed.

IV. All original suits and appeals and all proceedings which shall be pending in any of the Courts mentioned in Section II at the time when this Act shall come into operation, shall be transferred to the Courts and Officers to be established and appointed for the administration of Civil and Criminal justice within the said Fort and adjacent territory, according to their respective jurisdictions.

Pending suits, appeals, and proceedings to be transferred to Courts to be established by Government.

V. Appeals from decrees in original suits, and second appeals from decrees passed in appeal, not pending at the time when this Act shall come into operation, but presented to the Zillah Court within thirty days after the passing of the decision appealed against, shall be received by such Court, and disposed of in the same manner as pending appeals.

Appeals presented to the Zillah Court within thirty days after the decision appealed against, to be treated as pending appeals.

VI. The general Laws in force within the territories subject to the Presidency of Fort St. George shall be applied and administered by the said Courts and Officers in the trial and determination of such suits, appeals, and proceedings. Provided that, if in any Civil case it shall appear that the application of the said Laws would operate unjustly if applied to the trial and determination thereof, it shall be lawful for the said Courts to try and determine the same according to equity and good conscience. Provided also that no act committed within the said Fort and adjacent territory, before this Act comes into operation, shall be deemed an offence punishable under the provisions hereof, if at the time of the commission of such act the same was not contrary to the Laws then in force within the said Fort and adjacent territory.

Application of the general Laws to the trial of such suits, appeals, and proceedings.

VII. Decrees

ACT No. XXXII of 1858.

VII. Decrees passed by any of the Courts mentioned in Section II of this Act may be executed according to the Law in force for the execution of decrees within the territories subject to the Presidency of Fort St. George, or as near thereto as may be.

Execution of decrees passed by the Rajah's Courts.

VIII. This Act shall come into operation from such day as shall be fixed by the Governor of Fort St. George in Council, by notice to be published in the Government Gazette.

Commencement of Act.

ACT No. XXXIII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 11th September 1858.)

An Act to amend Act XII of 1844 (for better securing the observance of an exact discipline in the Indian Navy).

WHEREAS, by Section III Act XII of 1844, it was provided that nothing in that Act contained should extend or be construed to extend to empower any Court Martial, to be constituted by virtue of that Act, to proceed to the punishment or trial of any of the offences specified in the several Articles contained in that Act, or of any offence whatsoever, (other than the offences specified in the 5th, 34th, and 35th of the said Articles and Orders) which should not be committed upon the main sea or in great rivers only beneath the bridges of the said rivers nigh to the sea, or any haven, river, or creek within the jurisdiction of the Admiralty, and which should not be committed by such person as, at the time of the offence committed, should be in actual service and full pay in the Indian Navy, such persons only excepted and for such offences only as were described in the 5th of the said Articles and Orders: and whereas it is expedient that every superior Officer, Captain or Commander, or Lieutenant, belonging to the Indian Navy, should be amenable to Naval Courts Martial for the offences specified in Article 33 of the said Act, whether the same be committed on the main sea or on shore: It is enacted as follows:—

Preamble.

I. Nothing

ACT No. XXXIII OF 1858.

I. Nothing contained in the 3rd Section of Act XII of 1844 shall extend to any of the offences specified in Article 33 of the said Act, which, after the passing of this Act, shall be committed by any superior Officer, Captain or Commander, or Lieutenant, belonging to the Indian Navy,

Section III Act XII of 1844 not to prevent the trial of Naval Officers by Courts Martial for certain offences whether committed at sea or on shore.

ACT No. XXXIV OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th September 1858.)

An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter.

WHEREAS the several Courts of Judicature established by Royal Charters within the British Territories in India are authorized and empowered by their respective Charters to appoint guardians and keepers of the persons and estates of Lunatics, and to inquire into, hear, and determine questions of alleged Lunacy by inspection of the person or by such other ways and means by which the truth may best be discovered and known; and whereas, according to the practice of the said Courts, questions of alleged Lunacy are determined by inquisition taken before a jury, and it is expedient to lessen the cost and to alter the mode of enquiry into such questions, and also to empower the said Courts to make provision for the due management of the estates of Lunatics; It is enacted as follows :—

Preamble.

I. It shall be lawful for any of the said Courts of Judicature, on such application as is hereinafter mentioned, to make an order directing an enquiry whether any person subject to the jurisdiction of the Court, who is alleged to be Lunatic, is or is not of unsound mind and incapable of managing himself and his affairs. The order may also contain directions for other enquiries concerning the nature of the property belonging to the alleged Lunatic, the persons who are his relatives or next of kin,

Court may order enquiry as to persons alleged to be insane.

of unsound mind

Order for enquiry may also direct concerning property, &c. of alleged Lunatic.

A

the

ACT No. XXXIV OF 1858.

the time during which he has been of unsound mind, or such other matters as to the Court shall seem proper.

II. Application for such enquiry may be made by any persons related by blood or marriage to the alleged Lunatic, or by the Advocate General.

Application by whom to be made.

III. The order made by the Court upon such application shall direct the enquiry to be by the Court itself. It shall nevertheless be lawful for the Court, if it see sufficient cause for so doing, to direct the enquiry to be executed in Chambers before a single Judge of the Court. Reasonable notice of the time and place appointed for the enquiry shall be given to the alleged Lunatic. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also, if it think fit, direct a copy of such notice to be served upon any person related by blood or marriage to the alleged Lunatic. If the enquiry be directed to be executed before a single Judge, it shall be lawful for the alleged Lunatic, at any time before the day fixed for the enquiry, to demand an enquiry before the full Court. In such case the enquiry shall be by the Court, and a further day shall be appointed for making such enquiry ; and in such case the Court may direct such further notices (if any) to be given, as it may think requisite.

Ordinarily, enquiry to be by the Court.

Court may for sufficient cause direct enquiry by a single Judge.

Notice of enquiry to be given to Lunatic.

Service of Notice.

Lunatic may demand enquiry before full Court.

IV. The Court may, at any time after the application, require the alleged Lunatic to attend at such convenient time and place, within twenty miles of the place of residence of the said Lunatic, as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic.

Court may, at any time after the application, require attendance of Lunatic for the purpose of being personally examined.

V. The Court may likewise, at any time after the application for such enquiry, make an order authorizing any person or persons to be therein named, to have access to the alleged Lunatic for the purpose of a personal examination.

And may authorize persons to have access to the Lunatic for the purpose of examination.

VI. The

ACT No. XXXIV of 1858.

VI. The attendance and examination of the alleged Lunatic under the provisions of the two last preceding Sections, shall, if the alleged Lunatic be a woman who, according to the custom and manners of the country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Rules respecting attendance and examination where the alleged Lunatic is a woman of rank.

VII. If the enquiry is made by a Judge of the Court, the Judge executing the enquiry shall, while so employed, have power (subject to the provisions of the last preceding Section) personally to examine the alleged Lunatic and take such evidence, on oath or otherwise, and call for such information as he may think fit or the said Court may direct in order to ascertain whether the alleged Lunatic is or is not of unsound mind, and shall have the like powers and authority as are or may be vested by law in a Judge or Master of the said Court for the investigation of matters referred to them by the Court. The Judge shall report to the Court the result of the enquiry.

Powers of Judge executing the enquiry.

Judge to report.

VIII. If the alleged Lunatic be not within the local limits of the jurisdiction of the Court, and the enquiry cannot conveniently be made in either of the modes hereinbefore provided, the Court may direct the enquiry to be made before any principal Court of original jurisdiction in Civil cases within whose local jurisdiction the alleged Lunatic may be; and such last mentioned Court shall accordingly proceed to make such enquiry in the same manner as if the alleged Lunatic were subject to its jurisdiction, and shall certify its finding upon the matters of enquiry to the Court directing the enquiry. The evidence taken upon the enquiry shall be recorded by the Court in the English language in the form of a narrative, and a copy thereof, certified by the Court, shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the enquiry was directed.

Court may in certain cases direct enquiry to be made before any principal Civil Court of original jurisdiction within whose local jurisdiction the alleged Lunatic may be.

IX. If the report of the Judge or the finding of a Court under the last preceding Section appear to the Court directing the enquiry to be defective or insufficient in point of form, it shall be lawful for such last mentioned Court either to amend

If report of Judge or finding of Court appear defective or insufficient in form, it may be amended by the Court directing the enquiry.

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amend the same or to refer it back to the Judge or the Court which made the enquiry to be amended.

X. It shall be lawful for the Court, on the application of the person at whose instance the order directing an enquiry was made or on the application of the alleged Lunatic or of any of his relatives authorized by the Court to make the application, to direct a new trial of the matters of enquiry according to the usual course and practice of the Court in directing new trials in Civil cases. If such application be granted in a case tried by a single Judge, the order granting the same shall direct the enquiry to be made by the full Court. If the application be granted in a case tried under Section VIII, the Court directing the new trial may give such directions regarding the same as it shall see fit.

XI. The Court shall make such order as may appear just respecting the costs of any enquiry under this Act, and may include therein such remuneration to Physicians and Surgeons as the Court, having regard to the nature of the enquiry, shall deem reasonable.

XII. If no new trial be directed, the finding of the Court to which the application for enquiry was made, if the enquiry have been made by such Court, or the report of the Judge, or the finding of the Court to which the enquiry may have been referred under the provisions of Section VIII, as the case may be, shall be of the same force and effect, and be proceeded on in the same manner in regard to the appointment of Committees of the person and estate of the Lunatic, as the inquisition now according to practice taken upon the oath of a jury.

XIII. It shall be lawful for the Court, on the appointment of Committees of the person and estate of a Lunatic, to direct by the order of appointment, or by any subsequent order, that the person to whom the charge of the estate is committed, shall have such powers for the management thereof as the Court shall seem necessary and proper, reference being had to the nature of the property, whether moveable or immoveable, of which the estate may consist. But such powers shall not extend to the sale or charge by way of

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of mortgage of the estate or any part thereof, or to the letting of any immoveable property unless for a term not exceeding three years.

XIV. The Master of the Court shall be at liberty, without an order of reference, to receive any proposal and conduct any enquiry respecting the management of the estate of a Lunatic, if such proposal relate to any matter which the Committee of the estate has not been empowered by an order under the last preceding Section to dispose of. The Master may likewise, without reference, receive and enquire into any proposal relating to the sale or charge by way of mortgage of the estate or of any part thereof, or to the letting of any immoveable property for a term exceeding three years.

XV. The Master shall report to the Court on the proposal; and the Court shall, subject to the provisions of this Act, make such order upon the report and respecting the costs, as shall, under the circumstances, seem just.

XVI. The Court or the Master shall once in the matter of each Lunacy, and may afterwards from time to time, determine whether any one or more and (if any) how many and which of the relatives or next of kin shall attend before the Master, at the cost of the estate, in any proceeding connected with the management thereof; and, if any such relative or next of kin is an infant, may from time to time appoint a fit person to be his guardian for the purposes of the Lunacy.

XVII. The Court may, on application made to it by petition concerning any matter whatsoever connected with the Lunacy, make such order, subject to the provisions of this Act, respecting the application and the costs thereof, and of the consequent proceedings, as shall, under the circumstances, seem just.

XVIII. The Court may, if it appears to be just, or for the Lunatic's benefit, order that any property, moveable or immoveable, of the Lunatic, and whether in possession, reversion, remainder, contingency, or expectancy, be sold or charged by way

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by way of mortgage or otherwise disposed of, as may seem most expedient for the purpose of raising money to be applied for any of the following purposes:—

1. The payment of the Lunatic's debts, including any debt incurred for his maintenance or otherwise for his benefit.

2. The discharge of any incumbrance on his estate.

3. The payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to Europe, when he shall be so removed, and all expenses incidental thereto.

4. The payment of the costs of any enquiry under this Act, and of any costs incurred by order or under the authority of the Court.

XIX. The Committee of the Lunatic's estate shall, in the name and on behalf of the Lunatic, execute all such conveyances and instruments of transfer relative to any sale, mortgage, or other disposition of his estate as the Court shall order. In like manner such Committee shall, under the order of the Court, exercise all powers whatsoever vested in a Lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

XX. Where a person, having contracted to sell or otherwise dispose of his estate or any part thereof, afterwards becomes Lunatic, the Court may, if the contract is such as the Court thinks ought to be performed, direct the Committee of the estate to execute such conveyances and to do such other acts in fulfilment of the contract as it shall think proper.

XXI. If a member of a partnership firm be found Lunatic, the Court may, on the application of the other partners, or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court

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of Court or otherwise by due course of law, the Committee of the estate may, in the name and on behalf of the Lunatic, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

XXII. Where a Lunatic has been engaged in business, the Court may, if it appear to be for the Lunatic's benefit that the business premises should be disposed of, order the Committee of the estate to sell and dispose of the same; and the monies arising from such sale shall be applied in such manner as the Court shall direct.

XXIII. Where a Lunatic is entitled to a lease or under-lease, and it appears to be for the benefit of his estate that it should be disposed of, the Committee of the estate may, by order of the Court, surrender, assign, or otherwise dispose of the same to such person for such valuable or nominal consideration, and upon such terms as the Court shall think fit.

XXIV. If a Lunatic is possessed of any landed property situate beyond the local limits of the jurisdiction of the Court, which, by the law in force in the Presidency wherein such land is situated, subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the said Court of Wards may assume the charge of such landed property and manage the same according to the rules for the time being in force for such management. Provided that, in such case, no further proceedings in respect of the Lunacy shall be taken under any such law, nor shall it be competent to the Court of Wards or to any Collector to appoint a guardian of the person of the said Lunatic or a manager of the estate except of the landed property which so subjects the proprietor as aforesaid. Provided also that the surplus of the income of such landed property, after providing for the discharge of the Government Revenue and expenses of management, shall be disposed of from time to time in such manner as the Supreme Court shall direct, and not otherwise. Provided further that nothing contained in this Section shall affect

When and to what extent Court of Wards may assume charge of land belonging to a Lunatic.

Proviso.

Surplus income of the land, after payment of Government Revenue, &c., to be disposed of as the Supreme Court shall direct.

affect

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Provisions of this Section not to affect certain powers given to the Supreme Court by the Act.

affect the powers given to the Supreme Court by Sections XVIII, XIX, and XX of this Act or (except so far as relates to the management of the said landed property which so subjects the proprietor as aforesaid) the powers given by any other Section of this Act.

XXV. Where any Stock or Government Securities or any Share in a Company (transferable within the said territories or the dividends of which are payable there) is standing in the name of, or is vested in a Lunatic, beneficially entitled thereto, or in a Committee of the estate of a Lunatic, or in a trustee for him, and the Committee dies intestate, or himself becomes Lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the Committee be living or dead, or he neglects or refuses to transfer the Stock, Securities, or Shares, or to receive and pay the dividends to a new Committee or as he directs, within fourteen days after being required by him to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

XXVI. Where any such Stock or Government Securities or Share in a Company is standing in the name of, or vested in any person residing out of the said Territories, and not in any part of the United Kingdom, the Court, upon being satisfied that such person has been declared of unsound mind, and that his personal estate has been vested in a curator or manager, according to the laws of the place where he is residing, may order some fit person to make such transfer of the Stock, Securities, or Shares, or of any part thereof, to such curator or manager or otherwise, and also to receive and pay over the dividends and proceeds, as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

XXVII. If it appears to the Court, having regard to the situation and condition in life of the Lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, it may, instead of appointing a Committee

Court may in certain cases apply property for Lunatic's maintenance without appointing Committee.

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a Committee of the estate, order that the property if money or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid; and all payments so made shall be a good discharge to the person making the same.

XXVIII. If it appears to the Court that the unsoundness of mind of a Lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of his family, the Court may, in like manner as under the last preceding Section, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Like power in case of temporary Lunacy.

XXIX. When any person has been found of unsound mind, and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf, or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for enquiry whether such person is or is not still of unsound mind and incapable of managing himself and his affairs. The enquiry shall be conducted in the same manner and subject to the same rules as are hereinbefore prescribed for an enquiry into the unsoundness of mind of an alleged Lunatic; and if it be found that the unsoundness of mind has ceased, the Court shall order all proceedings in the matter of the Lunacy to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

Proceedings in Lunacy to cease or to be set aside if Court after enquiry find that the unsoundness of mind has ceased.

XXX. The Court may, from time to time, make such orders, not inconsistent with the provisions of this Act, as shall seem meet for carrying into effect the purposes of this Act, and for regulating the mode of proceeding before the Court, or before a Judge of the Court, or the Master, in matters of Lunacy.

Power of Court to make general orders.

XXXI. Every power given by this Act to the Master of any of the said Courts may also be exercised by a Judge of any of the said Courts, and shall in the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca be exercised by the Recorder of the said Court or of any division thereof.

Powers of Master to be exercised by a Judge or Recorder.

XXXII. Unless

ACT No. XXXIV OF 1858.

XXXII. Unless the contrary appears from the context, the word
Interpretation. "Lunatic," as used in this Act, shall mean any person
"Lunatic." found by due course of law to be of unsound mind and
incapable of managing his affairs. Words importing the singular number
Number. shall include the plural number, and words importing
Gender. the plural number shall include the singular. Words
importing the masculine gender shall include females.

ACT No. XXXV OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th September 1858.)

An Act to make better provision for the care of the Estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.

Preamble. WHEREAS it is expedient to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature ; and to prescribe general rules by which the state of mind of persons not subject to such jurisdiction, who are alleged to be Lunatic, may be enquired into and ascertained ; It is enacted as follows :—

I. So much of Section V Regulation X. 1793, of Section IX Regulation LII. 1803, of Regulation I. 1800, and of Section XXIX Regulation VIII. 1805 (extended to Benares by Section II Regulation VI. 1822), of the Bengal Code ; and so much of Sections VI and VII Regulation V. 1804, and of Sections XX and XXII of the said Regulation (as modified by Section III Regulation X. 1831), of the Madras Code as relate to Lunatics or idiots—are hereby repealed.

II. Whenever any person not subject to the jurisdiction of the Supreme Courts, who is possessed of property, is alleged to be a Lunatic, the Civil Court, within whose jurisdiction such person is residing, may, upon such application as is hereinafter mentioned, institute an enquiry for the purpose of ascertaining whether

Civil Court on application may institute enquiry when a person possessed of property is alleged to be a Lunatic.

a

ACT No. XXXV OF 1858.

whether such person is or is not of unsound mind and incapable of managing his affairs.

III. Application for such enquiry may be made by any relative of the alleged Lunatic or by any Public Curator appointed under Act XIX of 1841, or by the Government Pleader, or if the property of the alleged Lunatic consist in whole or in part of land or any interest in land, by the Collector of the District in which it is situate. If the property or any part thereof be of such a description as by the law in force in any Presidency where such property is situate would subject the proprietor, if disqualified, to the superintendence of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

IV. When the Civil Court is about to institute any such enquiry as aforesaid, it shall cause notice to be given to the alleged Lunatic of the time and place at which it is proposed to hold the enquiry. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also direct a copy of such notice to be served upon any relative of the alleged Lunatic.

V. The Civil Court may require the alleged Lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic. The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged Lunatic for the purpose of a personal examination.

VI. The attendance and examination of the alleged Lunatic under the provisions of the last preceding Section shall, if the alleged Lunatic be a woman who, according to the manners and customs of the Country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

VII. The

ACT No. XXXV OF 1858.

VII. The Civil Court, if it think fit, may appoint two or more persons to act as Assessors to the Court in the said enquiry. Upon the completion of the enquiry, the Court shall determine whether the alleged Lunatic is or is not of unsound mind, and may make such order as to the payment of the costs of the enquiry by the person upon whose application it was made, or out of the estate of the alleged Lunatic if he be adjudged to be of unsound mind, or otherwise, as it may think proper.

VIII. If the alleged Lunatic reside at a distance of more than fifty miles from the place where the Civil Court to which the application shall have been made is held, the said Court may issue a Commission to any subordinate Court, to make the enquiry, and thereupon the said subordinate Court shall conduct the enquiry in the manner hereinbefore provided. On the completion of the enquiry the subordinate Court shall report its proceedings with the opinions of the Assessors, if Assessors have been appointed, and its own opinion on the case; and thereupon the Civil Court shall make such order in the case as it may think proper.

IX. When a person has been adjudged to be of unsound mind and incapable of managing his affairs, if the estate of such person or any part thereof consist of property which by the law in force in any Presidency subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the Court of Wards shall be authorized to take charge of the same. In all other cases, except as otherwise hereinafter provided, the Civil Court shall appoint a Manager of the estate. Any near relative of the Lunatic or the Public Curator, or, if there be no Public Curator, any other suitable person, may be appointed Manager.

X. Whenever a Manager of the estate of a Lunatic is appointed by the Civil Court, the Court shall appoint a fit person to be Guardian of the person of the Lunatic. The Manager, unless he be the Public Curator, may be appointed Guardian. Provided always that the legal heir of the Lunatic shall not in any case be appointed Guardian of his person.

XI. If

ACT No. XXXV OF 1858.

XI. If the estate consist in whole or in part of land or any interest in land not subject to the jurisdiction of the Court of Wards, the Civil Court, instead of appointing a Manager, may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property and a Guardian of the person of the Lunatic. All the proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Court may direct Collector to take charge of Lunatic's estate if consisting of land not subject to Court of Wards.

Proceedings of Collector subject to control of superior Revenue Authorities.

XII. If the person appointed to be Manager of the estate of a Lunatic, or the person appointed to be Guardian of a Lunatic's person, shall be unwilling to discharge the trust gratuitously, the Court or the Collector, as the case may be, may fix such allowance or allowances to be paid out of the estate of the Lunatic as, under the circumstances of the case, may be thought suitable.

Remuneration of Managers and Guardians.

XIII. The person appointed to be Guardian of a Lunatic's person shall have the care of his person and maintenance. When a distinct Guardian is appointed, the Manager shall pay to the Guardian such allowance as shall be fixed by the Court or the Collector, as the case may be, for the maintenance of the Lunatic and of his family.

Duties of Guardian.

XIV. Every Manager of the estate of a Lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Lunatic : and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Lunatic. But no such Manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immoveable property for any period exceeding five years, without an order of the Civil Court previously obtained.

Powers of Managers.

XV. Every person appointed by the Civil Court or by the Collector to be Manager of the estate of a Lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the landed property belonging to the Lunatic and of all such

Managers to furnish inventory and annual accounts.

ACT No. XXXV OF 1858.

such sums of money, goods, and effects, as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such Manager shall furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the District, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands. If

Proceeding if accuracy of inventory or accounts be impugned.

any relative of the Lunatic, or any public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the Court may summon the Manager and enquire summarily into the matter and make such order thereon as it shall think proper ; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Collector if the Manager was appointed by the Collector.

XVI. All sums received by a Manager on account of any estate in excess of what may be required for the current expenses of the Lunatic or of the estate, shall be paid into the public Treasury on account of the estate and may be invested from time to time in the public Securities.

Manager to pay proceeds of estates into the public Treasury.

XVII. It shall be lawful for any relative of a Lunatic to sue for an account from any Manager appointed under this Act, or from any such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

Relative may sue for an account.

XVIII. The Civil Court, for any sufficient cause, may remove any Manager appointed by the Court, not being a Public Curator, and may appoint such Curator or any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all monies received or disbursed by him. The Court may also, for any sufficient cause, remove any Guardian appointed by the Court. In like manner the Collector, for any sufficient cause, may remove any Manager or Guardian appointed by the Collector ; and the Court, on the application of the Collector, shall compel any Manager so removed to deliver his accounts and the property in his hands.

Removal of Manager or Guardian by Civil Court.

Removal by Collector.

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XIX. The Civil Court may impose a fine not exceeding five hundred Rupees on any Manager of the estate of a Lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to close custody until he shall deliver such accounts or property.

Manager refusing to furnish accounts, may be fined by the Court, &c.

XX. If it appears to the Civil Court, having regard to the situation and condition in life of the Lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a Manager of the estate as hereinbefore provided, the Court may, instead of appointing such Manager, order that the property if money or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the maintenance of the Lunatic and his family.

Court may in certain cases apply property for Lunatic's maintenance without appointing any Manager.

XXI. When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person or any other person acting on his behalf or having or claiming any interest in respect of his estate, shall represent by petition to the Civil Court, or if the Court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the Court may institute an enquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs. The enquiry shall be conducted in the manner provided in Section IV and the four following Sections of this Act ; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the Court shall make an order for his estate to be delivered over to him, and such order shall be final.

Court may institute enquiry to ascertain whether a person has ceased to be of unsound mind.

And may order estate to be restored.

XXII. Except as otherwise herein provided, all orders made by a Civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals in miscellaneous cases.

Orders to be open to appeal.

XXIII. The

ACT No. XXXV OF 1858.

XXIII. The word "Lunatic," as used in this Act, unless the contrary appears from the context, shall mean every person found by due course of law to be of unsound mind and incapable of managing his affairs. The expression "Civil Court" shall mean the principal Court of original jurisdiction in the District. Words importing the masculine gender shall include females.

Interpretation:

"Lunatic."

"Civil Court."

Gender.

ACT No. XXXVI OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th September 1858.)

An Act relating to Lunatic Asylums.

Preamble. WHEREAS it is expedient to provide for the reception and detention of Lunatics in Asylums established for that purpose ; It is enacted as follows :—

I. The Executive Government of any Presidency or place, with the sanction of the Governor General of India in Council, may establish Asylums for the reception and detention of Lunatics at such places within the limits of the said Government as may be deemed proper. Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such Asylums within the said limits, and may withdraw such licenses.

II. The management of every Lunatic Asylum and the care and custody of its inmates shall be regulated according to such rules as shall from time to time be sanctioned by the Executive Government. The Executive Government shall appoint for every Asylum not less than three visitors, one of whom at least shall be a Medical Officer. The Inspector of Jails (where such office exists) shall be a visitor ex-officio of all the Asylums within the circle of his inspection.

a

III. Two

ACT No. XXXVI of 1858.

III. Two or more of the visitors, one of whom shall be a Medical Officer, shall, once at the least in every month, together inspect every part of the Asylum or Asylums of which they are visitors, and see and examine, as far as circumstances will permit, every Lunatic therein, and the order and certificate for the admission of every Lunatic admitted since the last visitation of the visitors; and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the Asylum and the Lunatics therein.

Monthly inspection by visitors.

IV. It shall be the duty of every Darogah or District Police Officer to apprehend and send to the Magistrate all persons found wandering at large within his District who are deemed to be Lunatics, and all persons believed to be dangerous by reason of Lunacy. Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a Medical Officer, shall examine such person, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Magistrate shall be satisfied on personal examination or other proof that such person is a Lunatic and a proper person to be detained under care and treatment, he shall make an order for such Lunatic to be received into the Asylum established for the Division in which the Magistrate's jurisdiction is situate, or, if such Lunatic is not a native of the country and the circumstances of the case so require, into a Lunatic Asylum at the Presidency; and shall send the Lunatic in suitable custody to the Asylum mentioned in such order. Provided that, if any friend or relative of any Lunatic, who is

Wandering and dangerous Lunatics to be sent to the Magistrate.

Certificate and order for reception in Asylum.

In certain cases, a Lunatic may be committed to the care of his friends or relatives.

Or sent to a licensed Asylum.

believed to be dangerous, shall undertake in writing to the satisfaction of the Magistrate that such Lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, instead of sending him to an Asylum, may make him over to the care of such friend or relative. Provided also that, if any such friend or relative shall desire that the Lunatic may be sent to a licensed Asylum instead of the public Asylum of the Division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the Lunatic in such Asylum, the Magistrate may send the Lunatic to the licensed Asylum mentioned in the engagement.

V. If

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V. If it shall appear to the Magistrate, on the report of a Police Officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a Lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may send for the supposed Lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed Lunatic, the Magistrate may make an order for such Lunatic being properly cared for and treated, and, if such relative or other person shall wilfully neglect to comply with the said order, may commit him to jail for a period not exceeding one month. If there be no person legally bound to maintain the supposed Lunatic, or if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding Section, and upon being satisfied in manner aforesaid that the person deemed to be a Lunatic is a Lunatic and a proper person to be detained under care and treatment, may make an order for his reception into such Asylum as aforesaid. It shall be the duty of every Darogah or District Police Officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

In case of neglect or cruel treatment of a Lunatic, Magistrate may order relative, or person bound to maintain him, to provide for the proper treatment of such Lunatic.

If no person bound to maintain him, Magistrate may make an order for his reception in Asylum.

Darogah to report neglect.

VI. All acts which the Magistrate is authorized or required to do by the two last preceding Sections, may be done in the Presidency Towns and the Stations of the Straits Settlement by the Commissioner of Police; and all duties which a Darogah or District Police Officer is authorized or required to perform, may be performed in any of the said Towns and Stations by an Officer of the Police Force not below the rank of Inspector.

Commissioner of Police, &c., to act in the Presidency Towns and Straits Settlement.

VII. Except as otherwise hereinbefore provided, no person shall be received into a Lunatic Asylum in any Presidency Town or in any Station of the Straits Settlement without an order under the hand of some person in the Form B in the Schedule to this Act, together with such statement of particulars as is contained in the said Form B; nor unless such person has been found Lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter

Order and certificate for reception into an Asylum in Presidency Towns and Straits Settlement,

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ter, without the medical certificate containing the particulars in Form A in the Schedule to this Act, of two persons each of whom shall be a Physician or Surgeon and one of whom shall be a Presidency Surgeon or a Surgeon in the employment of the Government. When such order is presented, the visitors or manager of the Asylum, before admitting the Lunatic into the Asylum, may require the friends of the said Lunatic to engage to pay the expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the Lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

VIII. *Clause 1.*—In places other than those specified in the last preceding Section, no person shall be received into a Lunatic Asylum, except as otherwise hereinbefore provided, without an order of the Civil Court.

In places other than Presidency Towns, &c., no person to be received into Asylum without order of Civil Court.

Clause 2.—When any person has been adjudged to be a Lunatic, and a guardian for such Lunatic has been appointed by the Court of Wards or the Collector or by the Civil Court, if such guardian shall desire that the Lunatic be admitted into a Lunatic Asylum, he shall make application to the Civil Court, and the Judge, with the assistance of a Medical Officer, shall examine such Lunatic, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Judge shall be satisfied that the Lunatic is a proper person to be detained under care and treatment in a Lunatic Asylum, he shall make an order for such person to be received into the Asylum established for the Division in which his jurisdiction is situate, or, if he think fit, into any licensed Asylum mentioned in the application.

Application for order to be made by a guardian, if a guardian has been appointed.

Clause 3.—If any relative or friend of any person for whom a guardian has not been appointed by the Court of Wards or the Collector or by the Civil Court, desires that such person may be admitted into a Lunatic Asylum, he may make application to the Civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of Lunacy in the same manner as if an application had been made to the Civil Court under the provisions of Section III of Act XXXV of 1858 entitled “*An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature*”; and if the Lunacy be established, the Judge may then proceed in the manner prescribed in the second Clause of this Section.

Application where no guardian has been appointed.

Clause 4

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Clause 4.—Whenever the Judge shall make an order for the reception of any person into a Lunatic Asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person; and such expenses shall be recovered by the Judge on the application of the visitors or manager of such Asylum. Provided however that, if it shall appear to the satisfaction of the Judge that the Lunatic has not sufficient property and that no person legally bound to maintain the said Lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the Lunatic into the Asylum, instead of making such order for the payment of expenses as aforesaid.

IX. It shall be lawful for three of the visitors of any Asylum, of whom one shall be a Medical Officer, by writing under their hands, to order the discharge of any person detained in such Asylum. When such order is given, if the person is detained under the order of any public Officer, notice of the order of discharge shall be immediately communicated to such Officer.

X. When any relative or friend of a Lunatic detained in any Asylum under the provisions of Section IV, Section V, or Section VI of this Act, is desirous that such Lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Police under whose order the Lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors or with one of them being a Medical Officer, and upon the undertaking in writing of such relative or friend to the satisfaction of the said Magistrate or Commissioner that such Lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, shall make an order for the discharge of such Lunatic, and such Lunatic shall thereupon be discharged.

XI. The Inspector of Jails may direct the removal of any Lunatic from any public Asylum to any other public Asylum within the circle of his inspection, and such order shall be sufficient authority for the removal of such Lunatic, and also for his reception into the Asylum to which he is ordered to be removed.

XII. If,

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XII. If, after the reception of any Lunatic into any Asylum, it appear that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said Asylum, one of whom shall be a Medical Officer.

Amendment of order or certificate.

XIII. Every person received into a Lunatic Asylum under any such order as is required by this Act accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such Asylum, or any Officer or servant belonging thereto, or any other person authorized in that behalf by the said manager, or any Police Officer, and conveyed to and received and detained in such Asylum.

Order and certificate to justify detention and re-capture after escape.

XIV. When any Lunatic is sent to a licensed Asylum by order of a Magistrate or Commissioner of Police under Section IV, Section V, or Section VI of this Act, and when a Lunatic is admitted into such Asylum under Section VII or an order for the reception of a Lunatic is made under Section VIII, and no engagement has been taken from the friends of the Lunatic or order made by the Judge for the payment of expenses under the said Section VII or Section VIII respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such Lunatic shall be paid by the Government to the manager of such Asylum.

In what cases Government to pay for the maintenance of Lunatic.

XV. The Magistrate or Commissioner of Police by whom any Lunatic has been sent to a Lunatic Asylum, if it appear to such Magistrate or Commissioner that such Lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, may apply to the chief Civil Court of original jurisdiction within the local jurisdiction of which the estate of the Lunatic may be situate or the person legally bound to maintain him may reside, and such Court shall enquire into the matter in a summary way, and on being satisfied that such Lunatic has an estate applicable to his maintenance, or that any person is legally bound to

Civil Court, on application of Magistrate, may make order for the payment of cost of maintenance out of the Lunatic's estate, or by person bound to maintain him.

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to maintain and has the means of maintaining such Lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such Lunatic out of such estate or from such person.

Enforcement, &c. of order. Such order shall be enforced in the same manner and shall be of the same force and effect and subject to the same

appeal as any judgment or order made by the said Court in a regular suit in respect of the property or person therein mentioned. Any personal property

Property in the possession of a Lunatic found wandering. which may be in the possession of a Lunatic found wandering at large may be sold by the Magistrate and the proceeds thereof (or such part of the same as may be necessary)

applied towards the payment of the charges of the lodging and maintenance of the Lunatic, and of any other expenses incurred on his behalf.

XVI. The liability of any relative or person to maintain any Lunatic shall not be taken away or affected by any provision contained in this Act.

XVII. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be Lunatic by inquisition or under the provisions of Act XXXIV of 1858 entitled "*An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*," or with the rights of any Committee of the person or estate of such Lunatic, or to affect the provisions of Act IV of 1849 entitled "*An Act for the safe custody of Criminal Lunatics*."

XVIII. The word "Lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot.

The word "Magistrate" shall include a person exercising the powers of a Magistrate.

SCHEDULE.

FORM A.

CERTIFICATE OF MEDICAL OFFICER.—(See Sections IV and VIII).

I, the undersigned, (here enter name and official designation,) hereby certify that I, on the day of at , personally examined
(here

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(here enter name and residence of Lunatic) and that the said _____ is a Lunatic (or an idiot, or a person of unsound mind) and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following grounds, namely :—

1. Facts indicating insanity observed by myself (here state the facts.)
2. Other facts (if any) indicating insanity communicated to me by others (here state the information and from whom.)

(Signed) _____

FORM B.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT.—(See Section VII).

I, the undersigned, hereby request you to receive A. B., a Lunatic, [*or an idiot, or a person of unsound mind,*] as a patient into your Asylum. Subjoined is a statement respecting the said A. B.

(Signed) name

Occupation (if any)

Place of abode

Degree of relationship (if any), or other circumstance of connexion with the patient.

Dated this _____ day of _____ one thousand eight hundred and _____

To _____ Superintendent of the Asylum at _____ [*describing the Asylum*].

STATEMENT.

STATEMENT.

[If any of the particulars in this Statement be not known, the fact to be so stated.]

Name of patient, with Christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to Epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether found Lunatic by inquisition or enquiry under order of Court, and date of Commission or order for inquisition or enquiry.

Whether any member of patient's family has been or is affected with insanity.

(Signed) Name.

[Where the person signing the Statement is not the person who signs the order, the following particulars concerning the person signing the Statement are to be added; namely,]

Occupation (if any).

Place of abode.

Degree of relationship (if any), or other circumstances of connexion with the patient.

ACT No. XXXVII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 5th October 1858.)

An Act to continue certain privileges and immunities to the family and retainers of His late Highness the Nabob of the Carnatic.

WHEREAS the exemption from the jurisdiction of the Civil and Criminal Courts enjoyed by the said late Nabob, his family, and servants, by virtue of the provisions of Act I of 1844, ceased at the death of the said late Nabob; and it is deemed expedient that some of the said persons should continue to be privileged, and that the privilege enjoyed by others should be continued as respects all acts done by them prior to the commencement of this Act; It is enacted as follows:—

I. No action shall be commenced or prosecuted, and no writ or process shall at any time be sued forth against the person, goods, or property of any of the Members of the family of the late Nabob, whose names are entered in Schedule (A) attached to this Act, unless such action shall be commenced, or such writ or process shall be sued forth with the consent of the Governor in Council of Fort St. George first had and obtained, such consent to be certified by the signature of one of the Secretaries to Government; and any action which shall at any time be commenced, and any writ or process which shall at any time be sued forth, against the person, goods, or property of any such person as aforesaid, without such consent as aforesaid, so certified as aforesaid, shall be utterly null and void.

No action to be commenced or prosecuted, and no process to issue against any of the Members of the family of the late Nabob mentioned in Schedule A, unless with the consent of the Governor in Council.

II. No

ACT No. XXXVII OF 1858.

II. No action shall be commenced or prosecuted, and no writ or process shall be sued forth against the person, goods, or property of any of the Members of the family or of the retainers of the late Nabob, who were protected from the process of the Civil and Criminal Courts by Act I of 1844, and whose names are entered in Schedules B and C annexed to this Act, on account of any contract which shall have been entered into, or cause of action which shall have accrued, at a time preceding the commencement of this Act, unless such action shall be commenced, or such writ or process shall be sued forth, with the consent of the Governor in Council of Fort St. George first had and obtained, such consent to be certified by the signature of one of the Secretaries to Government; and any action which shall at any time be commenced, and any writ or process which shall at any time be sued forth, in respect of any such contract or cause of action, against the person, goods, or property of any such person as aforesaid, without such consent as aforesaid, so certified as aforesaid, shall be utterly null and void.

Commencement of Act.

III. This Act shall commence and take effect from the expiration of Act XXIV of 1858.

SCHEDULE A.

Prince Azeem Jah, Ameer Ool Oomrah, Oomdut Ool Moolk, Ussud Ood Dowlah, Mohummud Ally Khan Bahadoor, Zoolfakhar Jung.

Nabob Khyroon Nissa Begum.

Auzum Oon Nissa Begum.

Shurf Oon Nissa Begum.

Fukhr Oon Nissa Begum.

Fazeelut Oon Nissa Begum.

Fatimah Begum.

Koolsoom Begum.

Ahmudy Begum.

Mookhtar Oon Nissa Begum.

Nabob Khaderiah Begum.

Nabob Ghousiah Begum.

Moomtauz Oon Nissa Begum.

Umutool Walee

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Umutool Walée Valeyut Oon Nissa Begum.
Umtolah Hammeedut Oon Nissa Begum.
Raheem Oon Nissa Begum.
Ahmed Oon Nissa Begum.
Uniutool Ali Ulyut Oon Nissa Begum.
Umutool Azeem Monazzaz Oon Nissa Begum.
Umutool Azeez Monazzaz Oon Nissa Begum.
Umutool Humeed Humeed Oon Nissa Begum.

SCHEDULE B.

Bauker Hoossain, styled Bauker Hoossain Khan Bahadoor.
Gholam Mohummud Hoossain, styled Rusheed Ood Dowlah Gholam
Mohummud Hoossain Khan Bahadoor, Iyalut Jung.
Gholam Mohummud, styled Mooneer Ood Dowlah, Gholam Mohum-
mud Khan Bahadoor, Jassarut Jung.
Gholam Russool, styled Etebar Ood Dowlah, Gholam Russool
Khan Bahadoor, Ukbur Yar Jung.
Ahmud Oollah, styled Moontuzim Ood Dowlah, Ahmud Oollah
Khan Bahadoor, Nubbee Yar Jung.
Noor Oollah Meyan, styled Oomdut Ood Dowlah, Mohummud Noor
Oollah Khan Bahadoor, Joorut Jung.
Gholam Mohi Ood Deen, styled Mowzaz Ood Dowlah, Mohi Ood Deen
Yar Khan Bahadoor, Hummyut Jung.
Mohummud Buddee Oollah, styled Zaheer Ood Dowlah, Mohummud
Buddee Oollah Khan Bahadoor, Fitrut Jung.

SCHEDULE C.

Mouluwee Abdool Wahaub, styled Madaar Ool Omrah, Moodubbir
Ool Moolk, Mookhtar Ood Dowlah, Wuzarut Khan Bahadoor
Urusthoo Jung.
Mohummud Nukhy, styled Bukshee Ool Moolk, Bukshee Ood Dow-
lah, Meer Uskur Khan Bahadoor, Salar Jung.
Mouluwee Mohummud

ACT No. XXXVII OF 1858.

Mouluwee Mohummud Oollah, styled Cauzee Ool Moolk, Moonsif Ood Dowlah, Dandrus Khan Bahadour, Moostuid Jung.

Gholam Ghouse, styled Mohtamid Ood Dowlah, Meer Samaun Khan Bahadour, Moontuzim Jung.

Mahmood Ally, styled Dubbeer Ool Moolk, Moosheer Ood Dowlah, Rauzdar Khan Bahadour, Moojuwwiz Jung.

Mouluwee Gholam Ally, styled Moonshee Ool Moolk Dubbeer Ood Dowlah, Etimaud Khan Bahadour, Ootarid Jung.

Hajee Khader Moortuza Hoossain, styled Salar Ool Moolk, Moh-tashim Ood Dowlah, Meer Atush Khan Bahadour, Mohtashim Jung.

ACT No. XXXVIII OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 11th December 1858.)

An Act to repeal Regulation V. 1832 of the Bengal Code, and to make certain provisions rendered necessary by the transfer of the Delhi Territory to the administration of the Chief Commissioner of the Punjab.

WHEREAS the whole of the Delhi Territory, except such part thereof as is specified in the Schedule to this Act annexed, has been placed under the administration of the Chief Commissioner of the Punjab, and it is expedient that Regulation V. 1832 of the Bengal Code should be repealed ; It is enacted as follows :—

Preamble.

Regulation repealed.

Suits and proceedings pending at the time of the transfer of the Territory.

Suits instituted subsequently.

I. Regulation V. 1832 of the Bengal Code is hereby repealed, except as to that part of the Delhi Territory which is mentioned in the Schedule to this Act annexed.

II. All suits and proceedings which were pending in any Court or before any Officer within any part of the said Territory, except as aforesaid, at the time when the same was placed under the administration of the said Chief Commissioner of the Punjab, and which have been or shall be transferred to the Courts or Officers which have been or shall be established or appointed for the administration of Civil and Criminal justice and the collection of the Revenues therein, shall be deemed to have been lawfully transferred to such Courts and Officers according to their respective jurisdictions ; and any suits or proceedings which, subsequently to the time when the said Territory was so placed under such administration, shall have been instituted in any such Court or before any such Officer, shall be deemed to have been lawfully instituted.

III. Any

ACT No. XXXVIII of 1858.

III. Any suit which, prior to the time when the said Territory was placed under the administration of the said Chief Commissioner, 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 transfer, but which may be remanded by an Appellate Court.

IV. All appeals or proceedings now pending in the Court of Sudder Dewany 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 existing at the period abovementioned, shall be made to the Court or Officer who 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 now pending before the Sudder Court or Board.

Applications for execution of decrees.

V. All appeals from decrees or orders passed before the said Territory was so placed under the administration of the said Chief Commissioner of the Punjab, which were not pending when the said Territory was so placed under the administration of the said Chief Commissioner, 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 ; and all decisions or orders passed by any such Courts or Officers on any appeals which may have been preferred between the date on which the said Territory was so placed under the administration of the said Chief Commissioner of the Punjab, and the date of the passing of this Act, shall be of the same force as if such decisions or orders had been passed after the passing of this Act.

Appeals not pending at the time of the transfer of the Territory.

SCHEDULE.

The tract, commonly called the Eastern Pergunnah, lying on the left bank of the Jumna.

ACT No. XXXIX OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 11th December 1858.)

An Act for the better recovery of Arrears of Revenue under Ryotwar Settlements in the Madras Presidency.

WHEREAS difficulties occur in applying the rules of Regulation XXVIII. 1802 of the Madras Code to lands under Ryotwar Settlements or otherwise subject to a Khas collection on the part of Government, and it is expedient to modify those rules; and whereas it is necessary to provide that the Collector shall, at his discretion, proceed to realize arrears of such Revenue by the sale of either the moveable or immoveable property of defaulters; It is hereby enacted as follows:—

Preamble.

I. Act XXIII of 1856 (*for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency*) is hereby repealed, except so far as relates to indemnity for any thing done before the passing of that Act.

Act repealed.

II. Whenever the Revenue or rent of any such lands is withheld beyond the day on which it falls due according to the Kistbundy or other engagement, or where no particular day is fixed, then beyond the time when such Revenue or rent becomes payable agreeably to local usage, the Collector shall have authority to proceed for the recovery of such arrears by the distress and the sale of the moveable property or the sale of the immoveable property of the defaulter wherever found. Provided that bullocks necessary to the cultivation of a tenant's holding, ploughs and implements of husbandry, and the tools of artisans, shall not be subject to distraint or sale.

Collector empowered to recover arrears of Revenue or rent by sale of moveable or immoveable property of defaulter.

Proviso.

III. In

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Seizure and sale of moveable property to be made as follows.

III. In the seizure and sale of moveable property for arrears of Revenue or rent, the following rules shall be observed—

First.—The Collector, or any other Officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing and signed with his name specifying the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person so deputed shall produce the writing as authority for making the distress, and on the day on which the property may 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 it may be lodged or kept.

Collector to furnish person distraining with a demand in writing.

Defaulter to be served with a copy.

Second.—The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount and the expense of the distress be previously discharged.

Writing to state that the distrained property will be sold.

Third.—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his usual place of residence before the expiration of the third day calculating from the day of the distress.

Mode of service when defaulter is absent.

IV. Where a defaulter on receiving notice may neglect to pay the amount due or to give satisfactory security for early payment, or where a defaulter may have absconded or may be otherwise not forthcoming so that the notice cannot be served upon him, the distrainer shall in either case transmit an inventory of the property distrained to the nearest public Officer empowered to sell distrained property, in order that it may be publicly sold for the discharge of the arrear due.

Consequence of defaulter neglecting to pay after notice, or absenting himself.

V. Where a defaulter may tender payment of the arrear demanded after his property may have been distrained and prior to the day fixed for sale, together with payment of the necessary expenses attending the distress, the distrainer shall receive

On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.

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receive the amount of such arrear and expenses immediately upon the same being tendered, and shall forthwith release the property.

VI. The distrainer attaching the crops or ungathered products of the lands belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case the expense of reaping or gathering and storing such crops or products, shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

VII. The distrainer shall not work the bullocks or cattle or make use of the goods or effects distrained; he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

VIII. Where property distrained may be stolen, or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, the loss or damage shall be made good by the Officer whose neglect occasioned the loss or damage.

IX. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

X. Distress shall be made after sun-rise and before sun-set and not otherwise.

XI. Where a defaulter may make a fraudulent conveyance of property, to prevent the distress for arrears, the Zillah Court, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer, and may impose on the parties to the fraud such fine, not exceeding one-half of the value of the property, as it may think proper.

XII. Where

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XII. Where a person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the Claims to property distrained and sold. distrainer may, notwithstanding, cause the same to be sold, the claimants, on proof of such right in the Zillah Court and in the event of the distrainer being unable to prove the responsibility for the arrear of Revenue or rent on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with costs and damages, according to the circumstances of the case. But claims to crops upon the ground, or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of Revenue or rent due from the ground upon which such crop or product may have been grown.

XIII. Where it may be proved to the satisfaction of the Zillah Court that any person has forcibly or clandestinely taken away Penalty for forcibly or clandestinely taking away distrained property. property once distrained, the Court may cause such person to be imprisoned for a period not exceeding six months or until he sooner restore the property or make good the value of it to the distrainer, and may also impose on him a fine not exceeding the value of such property.

XIV. The distrainer shall have power to force open any stable, cow- What places distrainer may force open. 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 for the Zenana or residence of women), 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.

XV. Where a distrainer may have reason to suppose that the property Powers of distrainer to force open doors in the presence of a Police Officer. 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 distrainer 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 distrainer may force open the outer door of such dwelling-house, in like manner as they may break open the door of any room

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room within the house, except the Zenana ; the distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a Zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank who according to the customs of the country cannot appear in public), enter the Zenana apartments for the purpose of distraining the defaulter's property deposited therein ; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants ; and nothing in this Act shall be understood to authorize a distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which by the usage of the country are considered private, in any other mode than is herein prescribed.

XVI. Persons entering the apartments of women, or forcing open the outer door of dwelling-houses, contrary to the provisions of this Act, shall on conviction before a Magistrate be liable to be imprisoned for any period not exceeding six months.

Punishment for unlawful entry.

XVII. The public Officer empowered to sell distrained property 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 distrained property will be sold, and shall cause proclamation of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

Proclamation to be made of the time of sale and of the property to be sold.

XVIII. At the appointed time, the property shall be put up in one or more lots as the distrainer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

Sale how to be conducted.

XIX. 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.

Payment on the purchase of distrained property how to be made.

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same. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall make good to the distrainer any loss arising, as well as the expenses incurred on the re-sale.

XX. 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 interest and all expenses of the distress and sale is not liquidated by the proceeds of such sale, the Collector shall have authority to proceed against and sell the immoveable property of the defaulter for the amount due with interest and all expenses attending such sale.

XXI. Immediately on the occurrence of an arrear, or at any subsequent period, the Collector shall have authority to attach at his discretion the whole or such portion of a defaulter's immoveable property as he may deem sufficient to answer the amount in arrear, but the previous sanction of the Board of Revenue shall in all cases be necessary for the sale of immoveable property.

XXII. The provisions of Sections XI, XII, XIII, XV, XVI, and XVII, Regulation XXVI. 1802 shall be applicable to sales of immoveable property under this Act, but a Persian translation of the sale advertisement shall not be necessary.

XXIII. When the immoveable property of a defaulter is first attached and sold, if the arrear due with interest, expenses of attachment and sale, and all other just charges, be not fully liquidated by the sale, the Collector may cause the moveable property of the defaulter to be distrained and sold for the recovery of the balance thereof with interest and all expenses of the distress and sale.

XXIV. When arrears of Revenue or rent with interest and other charges as aforesaid may not be liquidated by the sale of the property of the defaulter, and the Collector shall have reason to believe that the defaulter is wilfully withholding

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holding payment of the arrears or has been guilty of any fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest of the defaulter in the manner prescribed in Section XIII of Regulation XXVII. 1802 ; but no person shall be imprisoned on account of an arrear of Revenue

Limit of imprisonment. for a longer period than two years, or for a longer period than six months if the arrear does not exceed five hundred Rupees, or for a longer period than three months if the arrear does not exceed fifty Rupees.

XXV. Persons aggrieved by the Collector's acts under the preceding Section may proceed in the Zillah Court according to the provisions of Sections XI and XII Regulation XXVII. 1802. The provisions of the said Sections shall be applicable to such proceedings, and no other proceeding in any Court shall be had or taken against the Collector.

Proceeding by persons aggrieved by the Collector's acts under the preceding Section.

XXVI. Interest at one per centum per mensem shall be charged on all arrears of rent or Revenue under this Act from and after thirty days after the arrear has accrued.

What interest to be charged on arrears.

XXVII. Regulation V. 1822 shall not be applicable to sales of property under this Act.

Regulation V. 1822 not to apply to sales under this Act.

XXVIII. Arrears of Revenue due to Government other than land Revenue and demands recoverable as arrears of Revenue shall hereafter be recoverable in the same manner as arrears of land Revenue may be recovered under the provisions of this Act.

Arrears of certain Revenue, &c., other than land Revenue, recoverable under this Act.

XXIX. Regulation XXVIII. 1802 shall be inoperative as respects arrears of Revenue recoverable under this Act.

Regulation XXVIII. 1802 not to apply to arrears recoverable under this Act.

XXX. The amount of any fine imposed under this Act shall be recoverable by the Collector in the manner prescribed in this Act for the recovery of arrears of Revenue or rent.

Recovery of Fines.

XXXI. Nothing contained in this Act shall be held to prevent parties aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Courts of Adawlut for redress.

Suits by persons aggrieved by proceedings under this Act.

ACT No. XL OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 11th December 1858.)

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the care of the persons and property of Minors not brought under the superintendence of the Court of Wards ; It is enacted as follows:—
Preamble.

I. Regulation I. 1800, Clause 8 and the six following Clauses of Section XXIX Regulation VIII. 1805, Section V Regulation XVII. 1805, and so much of Sections II and III Regulation V. 1799, and of Clauses 2 and 3 Section XVI Regulation III. 1803, as restrict the interference of the Civil Courts in cases of inheritance by Minors, are repealed.
Regulations repealed.

II. Except in the case of proprietors of estates paying Revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all Minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the Civil Court.
Persons and property of Minors not under the protection of the Court of Wards shall be subject to jurisdiction of Civil Court.

III. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a Certificate of administration ; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such Certificate. Provided that,
when
What persons claiming to have charge of property in trust for a Minor may apply for Certificate of administration.
No person to institute or defend a suit without such Certificate.

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Proviso. when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of administration has not been granted to such relative.

IV. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

Who may apply to Court to appoint a person to take charge of the property &c. of a Minor.

V. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

To what Court application to be made, if property be situate in more than one District.

VI. When application shall have been made to the Civil Court either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case. Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Summary enquiry to be made by Court on application.

Proviso.

VII. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed, and is willing to undertake the trust, the Court shall grant a Certificate of administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also, if it think fit, (unless a Guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

Certificate of administration to whom to be granted.

Court may appoint person having such Certificate, Guardian of the Minor's person.

VIII. The

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Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

or person.

VIII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor who may be desirous or willing to be entrusted with the charge of his property

IX. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed, and

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the property, &c. of a Minor.

if there be no near relative willing and fit to be entrusted with the charge of the property of the Minor, and the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

If estate consist only of moveable property, &c., Court may grant Certificate to Public Curator or other person.

X. If the estate of the Minor consist of moveable property or of houses, gardens, or the like, the Court may grant a Certificate to the Public Curator appointed under Section XIX Act XIX of 1841 (*for the protection of moveable and immovable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

XI. Whenever the Court shall grant a Certificate of administration to the estate of a Minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the

Appointment of Guardian.

Minor. The person to whom a Certificate of administration has been granted, unless he be the Public Curator, may be appointed Guardian. If the person

Guardian's allowance.

appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the Minor, as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it

Minor's allowance.

may think proper for the maintenance of the Minor; and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

XII. If

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XII. If the estate of the Minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property of the Minor and a Guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the Manager and the Guardian respectively, so far as the same may be applicable, as if the property and person of the Minor were subject to the jurisdiction of the Court of Wards.

When the estate consists of land, Court may direct Collector to take charge of estate. Appointment of Manager and Guardian thereupon.

XIII. In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the Minor or otherwise as it may think proper.

Costs of enquiries under this Act.

XIV. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the District in which the estate is situate may represent the fact to the Civil Court ; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court. The Collector shall in such case appoint a Guardian for the care of the persons, and a Manager for the charge of the property of the disqualified proprietors, in the manner prescribed in Section XII. If the property be situate in more than one District, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the Civil Court of his own District, and the orders of the Court of that District shall have effect also in other Districts in which portions of the property may be situate.

When an estate, some of the co-proprietors of which are still Minors, ceases to be subject to the Court of Wards, Civil Court may direct Collector to retain charge of shares and persons of Minors.

Provision for case of estates situated in more than one District.

XV. The

ACT No. XL OF 1858:

Proceedings of Collector subject to control of superior Revenue Authorities.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

XVI. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X shall, within six months from the date of the Certificate, deliver in Court an inventory of any immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Administrator shall furnish annually, within three months from the close of the year of the era current in the District, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand. If any relative or friend of a Minor or any Public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Public Curator &c. to furnish inventory and annual accounts.

Proceeding if accuracy of inventory or account be impugned.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall be paid into the public Treasury on account of the estate, and may be invested from time to time in the public Securities.

Public Curator &c. to pay proceeds of estates into Treasury. Surplus funds to be invested in public Securities.

XVIII. Every person to whom a certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

Powers of person to whom Certificate has been granted, in the management of a Minor's estate.

XIX. It

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XIX. It shall be lawful for any relative or friend of a Minor, at any time during the continuance of the minority, to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Relative or friend may sue for an account.

XX. If the disqualification of a person, for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Continuance of suit instituted under this Act after disqualification shall have ceased.

XXI. The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a Certificate to the Public Curator or any other person as the case may be ; and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him. The Court may also for any sufficient cause remove any Guardian appointed by the Court.

Revocation of Certificate.

Removal of Guardian.

XXII. The Civil Court may impose a fine not exceeding five hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court ; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court ; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Penalty for neglect or refusal to deliver accounts or property.

XXIII. The Civil Court may permit any person to whom a Certificate shall have been granted under this Act not being the Public Curator, and any Guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting

Civil Court may permit resignation of trust, &c.

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accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

XXIV. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X, shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the Minor's estate, as the Civil Court shall think fit.

Remuneration of Public Curator &c.

XXV. Every Guardian appointed by the Civil Court, or by the Collector under this Act, who shall have charge of any male Minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854 (*for making better provision for the education of male Minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such Minors, and to every such Guardian.

Guardians of Minors under this Act to provide for their education.

Act XXVI of 1854, declared applicable.

Persons under the age of 18 years to be held Minors for the purposes of this Act.

XXVI. For the purposes of this Act, every person shall be held to be a Minor, who has not attained the age of eighteen years.

XXVII. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of a Guardian of the person of any Minor whose father is living and is not a Minor; and nothing in this Act shall authorize the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the father or husband of the Minor, the Guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Act not to authorize the appointment of Guardians of certain married women and other persons.

Guardianship during the minority of the father or husband of a Minor when to cease.

XXVIII. All orders passed by the Civil Court or by any Subordinate Court under this Act, shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the Subordinate Courts.

Appeals.

XXIX. The

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XXIX. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the District, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any Minor subject to its jurisdiction. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Construction of the
Words "Civil Court" &c.,
Powers of Supreme Court
not affected.

Number.

Gender.

ACT No. XLI OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 30th December 1858.)

An Act to amend Regulation X. 1829 of the Bengal Code (for the collection of Stamp Duties).

WHEREAS, by the General Rule laid down at the end of Schedule A annexed to Regulation X. 1829 of the Bengal Code, it is declared that, if any Deed, Instrument, or Document specified in that Schedule shall not be contained in one sheet or piece of paper or other material, it shall suffice that one sheet shall bear the stamp, provided that the seals or signatures of the parties and witnesses be thereupon : and whereas the said Rule has been productive of inconvenience, and there is reason to believe that many Deeds, Instruments, and Documents have been executed since the said Regulation came into effect in respect of which the said Rule has not been complied with ; and it is expedient to repeal the said Rule, and to provide for the reception in evidence of such Deeds as aforesaid ; It is declared and enacted as follows :—

Preamble.

Part of Schedule A Regulation X. 1829 repealed.

I. ~~The~~ above Rule is hereby repealed.

II. Every Deed, Instrument, or Document specified in the said Schedule, which is or shall be contained in more than one sheet or piece of paper or other material, shall be deemed to be sufficiently stamped if any one or more of such sheets or pieces of paper or other material shall bear the requisite stamp, or stamps equal in value to the requisite stamp, whether the signatures or seals of the parties and witnesses shall or shall not be upon such sheet or sheets. The above provision shall

Stamp on Deeds contained in more than one sheet of paper.

ACT No. XLI. of 1858.

shall apply to Deeds, Instruments, and Documents executed before this Act, as well as to Deeds, Instruments, and Documents which shall hereafter be executed: Provided, as regards Deeds, Instruments, and Documents which shall be executed after the 1st day of January 1859, that every sheet or piece of paper or other material which shall contain any part of such Deed, Instrument, or Document shall be stamped with a Government Stamp of the value of at least one anna.

III. In any case in which a Deed, Instrument, or Document has been rejected by any Court upon the ground that the same was not stamped within the meaning of the above-mentioned Rule, any party injured by the decision may obtain a review of judgment if the application be made within six months from the passing of this Act, and if the Court to which the application is made be satisfied that the Deed, Instrument, or Document, if admitted, would have led to a different decision upon the merits of the case.

IV. Nothing in the last preceding Section shall extend to any case in which a final decision was given more than six years before the passing of this Act.

Proviso as regards Deeds &c. to be hereafter executed.

Review of judgment in certain cases in which Deeds &c. have been rejected as not stamped.

Operation of Section III limited.