



Government of Bombay  
Legal Department

# The Bombay Code

## Volume I

containing

The Unrepealed Acts of the Governor of Bombay in Council  
in force in Bombay from 1862 to 1887, inclusive; And  
a Chronological Table of Enactments reproduced  
in the Volume with an Index

*FIFTH EDITION*

[Price—Re. 1 Annas 7 or 2s. 6d.]

BOMBAY  
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## PREFACE.

The present fifth edition of the Bombay Code is based partly on the last edition edited and published by the Legislative Department of the Government of India and partly on the last edition of the supplementary volumes (containing Bombay Acts from 1923-1934), edited and published by the Legal Department of the Government of Bombay. It contains, with some exceptions, the unrepealed Bombay Regulations, the Local Acts of the Governor General in Council in force in the Province of Bombay, the Acts passed by the Governor of Bombay in Council, the Bombay Legislative Council and the Bombay Legislature.

2. The exceptions referred to above are—

(a) certain enactments which are now only in force within narrow limits and which were excluded from the last edition of the Code ;

(b) the following Acts, which are of a purely personal character :—

Act XVIII of 1848 (Nawab of Surat).

Act VI of 1893 (Sir Dinshah Manockjee Petit).

Act XIX of 1911 (Sir Cowasjee Jehangir Baronetcy).

Act IV of 1913 (Sir Currimbhoy Ebrahim Baronetcy).

Act II of 1915 (Sir Sassoon Jacob David Baronetcy).

Act X of 1915 (Sir Jamsetjee Jeejeebhoy Baronetcy).

Act XXV of 1917 (Sir Currimbhoy Ebrahim Baronetcy Amendment).

Bom. Act VIII of 1924 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy).

Bom. Act XVI of 1936 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy Amendment).

3. This edition of the Code consists of six volumes, and like the earlier edition is divided into parts according to the class of enactments in each part. Volume I contains Part I, which reproduces unrepealed Bombay Regulations published in the last edition ; and Part II which consists of unrepealed Local Acts of the Governor General in Council, now in force in the Province of Bombay. The other five volumes contain Parts III and IV, which reproduce the Acts passed by the

local Council and the Bombay Legislature, respectively, from 1862 onwards. Volume II consists of the Acts passed during the years 1862 to 1887, Volume III those passed from 1888 to 1897, Volume IV those passed from 1898 to 1922, Volume V those passed from 1923 to 1930 and Volume VI those passed from 1931 to 1937.

4. Since its last publication in 1922 a large number of amending acts and new enactments have been passed by the Bombay Legislative Council. The Government of India (Adaptation of Indian Laws) Order, 1937, passed under section 293 of the Government of India Act, 1935, has made considerable changes in almost all the Acts and Regulations enacted prior to 1st April 1937. In publishing this edition, all Acts purely of an amending nature modifying the main Bombay Acts have been omitted except those which have modified the Acts of the Central Government.

5. In order to facilitate ready reference to all the changes carried out in any Act, a table has been inserted at the commencement of each Act setting out the number and years of all amending and repealing Acts. A chronological table of Acts and a short index are also appended to each of the volumes. The changes made by the Government of India (Adaptation of Indian Laws) Order, 1937, are referred to in the foot-notes as being made by the Adaptation of Indian Laws Order in Council.

All Acts are printed as modified up to 31st December 1937.

LEGAL DEPARTMENT.

28th January 1938.

## CHRONOLOGICAL TABLES.

### PART I.—BOMBAY REGULATIONS IN FORCE IN BOMBAY.

Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1827	II	Caste-questions; Pleaders ..	Rep. in part, by Act 1 of 1846. Rep. in part, by Act 10 of 1861. Rep. in part, by Act 10 of 1873. Rep. in part, by Act 12 of 1873. Rep. in part, by Act 12 of 1876. Rep. in part, by Act 18 of 1879 (as amended by Act 1 of 1903): Rep., Bom. Act 6 of 1866; (locally), by Act 14 of 1869; and amended by Act 16 of 1895. Rep. excepting part of section 21, by Bom. Act 17 of 1920. Adapted and modified by the Adaptation of Indian Laws Order in Council.	1
..	IV	Civil Courts (Law to be observed).	Rep. in part, by Act 10 of 1861. Rep. in part, by Act 17 of 1862. Rep. in part, by Act 6 of 1874. Rep. (locally), by Act 14 of 1869. Rep. (locally), by Bom. Act 5 of 1879. Adapted and modified by the Adaptation of Indian Laws Order in Council.	7



Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1827	V	Acknowledgment of debts; Interest; Mortgages.	Rep. in part, by Act 28 of 1855. Rep. in part, by Act 9 of 1871. Rep. in part, by Act 12 of 1873. Rep. in part, by Act 12 of 1876. Rep. in part, by Act 4 of 1894. Rep. (locally), by Act 17 of 1879, s. 12. Rep. (locally), by Act 4 of 1882.	7
"	VIII	Administration of Estates	Rep. in part, by Act 12 of 1873. Application of section 10 restricted (locally), by Bom. Act 4 of 1890, section 58 (3). Adapted and modified by the Adaptation of Indian Laws Order in Council.	10
"	XII	Police (Duties and Powers of Magistrates).	Rep. in part, by Act 3 of 1857. Rep. in part, by Act 17 of 1862. Rep. in part, by Act 10 of 1872. Rep. in part, by Act 10 of 1873. Rep. in part, by Act 12 of 1873. Rep. in part, by Act 12 of 1876. Rep. in part, by Act 4 of 1894. Rep., Bom. Act 6 of 1866. Rep., Bom. Act 7 of 1867. Rep., Bom. Act 8 of 1867. Rep. in part, Bom. Act 2 of 1870. Rep. in part (locally), by Bom. Act 4 of 1870.	15

Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1827	XII	Police (Duties and Powers of Magistrates)—(contd.)	Rep. in part and amended, by Bom. Act 3 of 1886. Supplemented, by Act 2 of 1889. Rep. in part, by Bom. Act 15 of 1932.	
"	XIII	Criminal Courts (Substitution of letter for summons).	Rep. in part, by Act 17 of 1862. Rep. in part, by Act 10 of 1872. Rep. in part, by Act 24 of 1872. Rep. in part, by Act 10 of 1873. Rep. in part, by Act 12 of 1873. Rep. in part, by Act 12 of 1876. Rep. in part, by Act 4 of 1894. Rep., Bom. Act 4 of 1865. Rep., Bom. Act 6 of 1866.	18
"	XXII	Military Authority (Assistance to marching troops).	Rep. (except sections 40 to 43), by Act 13 of 1889. Rep. in part, by Act 12 of 1873. Amended by Bom. Act 3 of 1886. Adapted and modified by the Adaptation of Indian Laws Order in Council.	19
"	XXV	State Prisoners	Rep. in part, by Act 3 of 1858. Rep. in part, by Act 12 of 1873. Rep. in part, by Act 12 of 1876. Amended, by Bom. Act 3 of 1886. Supplemented, by Act 34 of 1850. Supplemented, by Act 3 of 1858. Adapted and modified by the Adaptation of Indian Laws Order in Council.	22

Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1827	XXIX	Dekkhan and Khandesh (Puna, Ahmednagar and Khandesh Districts).	Rep. in part, by Bom. Reg. 4 of 1828. Rep. in part, by Act 6 of 1842. Rep. in part, by Act 11 of 1846. Rep. in part, by Act 4 of 1868. Rep. in part, by Act 14 of 1869. Rep. in part, by Act 10 of 1876. Rep. in part, by Act 12 of 1876. Rep. in part, by Act 4 of 1894. Supplemented, by Bom. Reg. I of 1831, as amended, by Bom. Reg. 16 of 1831, s. (2). Supplemented, by Bom. Reg. 19 of 1835. Adapted and modified by the Adaptation of Indian Laws Order in Council.	26
1830	VII	Southern Maratha Country (Dharwar District).	Rep. in part, by Act 6 of 1842. Rep. in part, by Act 12 of 1873. Rep. in part, by Act 10 of 1876. Rep. in part, by Act 12 of 1876. Amended by Act 16 of 1895. Supplemented by Bom. Reg. 16 of 1831. Adapted and modified by the Adaptation of Indian Laws Order in Council.	34
"	XIII	Jurisdiction of Jagirdars, etc. . .	Rep. in part, by Act 12 of 1873. Rep. in part, by Act 12 of 1876. Amended, by Act 4 of 1894.	43

Chronological Tables

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1830	XIII	Jurisdiction of Jagirdars, etc.—(contd.)	Adapted and modified by the Adaptation of Indian Laws Order in Council.	
1831	I	Land-suits	Rep. in part, by Act 12 of 1873. Amended, by Bom. Reg. 16 of 1831. Amended, by Act 13 of 1842. Adapted and modified by the Adaptation of Indian Laws Order in Council.	46
1831	XVI	Land-suits	Rep. in part, by Act 12 of 1873. Adapted and modified by the Adaptation of Indian Laws Order in Council.	47

## CHRONOLOGICAL TABLES.

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL  
IN FORCE IN BOMBAY.

Year.	No.	Short title or subject.	How repealed or otherwise affected in Bombay.	Page.
1	2	3	4	5
1835	XIX	The Dekkhan Assistant Agent's Appointment Act, 1835.	Rep. in part and amended by Act 12 of 1891. Adapted and modified by the Adaptation of Indian Laws Order in Council.	49
1838	XVI	The Bombay Courts of Adalat Act, 1838.	Rep. in part, by Act 14 of 1870. Rep. in part, by Act 16 of 1874. Rep. in part, by Act 10 of 1876. Rep. in part, by Bom. Act 2 of 1866. Rep. in part, by Bom. Act 3 of 1876.	50
„	XIX	The Bombay Coasting Vessels Act, 1838.	Rep. in part, by Act 14 of 1870. Rep. in part, by Act 16 of 1874. Rep. in part, by Act 12 of 1876, Adapted and modified by the Adaptation of Indian Laws Order in Council.	52
1839	XX	The Bombay Haqqa Prohibition Act, 1839. (56 1839 1839)	Rep. in part, by Act 16 of 1874. Amended by Act 4 of 1894. Adapted and modified by the Adaptation of Indian Laws Order in Council.	57
1840	XV	The Bombay Regulation XIII of 1830 (Application) Act, 1840.	Rep. in part, by Act 16 of 1874. Adapted and modified by the Adaptation of Indian Laws Order in Council.	58
1844	XIX	The Bombay Town-Duties Abolition Act, 1844.	....	59

Chronological Tables.

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Year.	No.	Short title or subject.	How repealed or otherwise affected in Bombay.	Page.
1	2	3	4	5
1852	XI	The Bombay Rent-free Estates Act, 1852.	Rep. in part, by Act 16 of 1875. Rep. in part, by Act 10 of 1876. Rep. in part, by Act 4 of 1894. Adapted and modified by the Adaptation of Indian Laws Order in Council.	61
1853	XI	The Shore-nuisances (Bombay and Kolaba) Act, 1853.	Rep. in part, by Act 22 of 1855. Rep. in part, by Act 14 of 1870. Adapted and modified by the Adaptation of Indian Laws Order in Council.	71
1857	IV	The Tobacco Duty (Town of Bombay) Act, 1857.	Rep. in part, by Act 14 of 1870. Rep. in part, by Act 16 of 1874. Rep. in part, by Act 12 of 1876. Rep. in part, by Act 12 of 1891. Amended by Bom. Act 1 of 1932. Amended by Bom. Act 14 of 1933. Adapted and modified by the Adaptation of Indian Laws Order in Council.	75
1866	XXIII	The Bombay High Court (Letters Patent) Act, 1866.	....	83
1869	XIV	The Bombay Civil Courts Act, 1869.	Rep. in part, by Act 14 of 1870. Rep. in part, by Act 12 of 1876. Rep. in part, by Act 7 of 1889. Rep. in part, by Act 8 of 1890. Rep. in part, by Act 12 of 1891. Rep. in part, by Bom. Act 1 of 1910.	85

Year.	No.	Short title or subject.	How repealed or otherwise affected in Bombay.	Page.
1	2	3	4	5
1869	XIV	The Bombay Civil Courts Act, 1869—(contd.)	Amended by Act 10 of 1876. Amended by Act 9 of 1880. Amended by Bom. Act 15 of 1880. Amended by Bom. Act 28 of 1930. Amended by Bom. Act 3 of 1895. Amended by Bom. Act 1 of 1900. Amended by Bom. Act 5 of 1912. Amended by Bom. Act 5 of 1914. Amended by Bom. Act 6 of 1926. Amended by Bom. Act 9 of 1927. Amended by Bom. Act 7 of 1930. Adapted and modified by the Adaptation of Indian Laws Order in Council.	
1871	IV	The Coroners Act, 1871	Rep. in part, by Act 9 of 1871. Rep. in part, by Act 10 of 1873. Rep. in part, by Act 12 of 1873. Rep. in part, by Act 16 of 1874. Rep. in part, by Act 12 of 1891. Rep. in part and amended by Act 10 of 1881. Rep. in part and amended by Act 4 of 1908. Amended by Act 5 of 1889. Amended by Act 38 of 1920. Amended by Bom. Act 13 of 1930. Adapted and modified by the Adaptation of Indian Laws Order in Council.	103

Chronological Tables.

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Year.	No.	Short title or subject.	How repealed or otherwise affected in Bombay.	Page.
1	2	3	4	5
1876	X	The Bombay Revenue Jurisdiction Act, 1876.	Rep. in part, by Act 4 of 1894. Rep. in part, by Act 16 of 1895. Rep. in part and amended by Act 15 of 1880. Rep. in part and amended by Act 12 of 1891. Amended by Act 16 of 1877. Amended by Bom. Act 21 of 1929. Adapted and modified by the Adaptation of Indian Laws Order in Council.	119
..	XV	The Bombay Municipal Debentures Act, 1876.	Rep. in part, by Act 1 of 1879.	129
..	XX	The Bhaunagar Act, 1876	Rep. in part, by Act 16 of 1895.	133
1877	XIV	The Broach and Kaira Incumbered Estates Act, 1877.	Rep. in part, by Act 4 of 1894. Rep. in part and amended by Act 21 of 1881. Adapted and modified by the Adaptation of Indian Laws Order in Council.	139
1879	XVI	The Transport of Salt Act, 1879.	Rep. in part, by Act 11 of 1901. Amended by Act 12 of 1891. Amended by Act 4 of 1914. Amended by Act 22 of 1925. Adapted and modified by the Adaptation of Indian Laws Order in Council.	143
..	XVII	The Dekkhan Agriculturists' Relief Act, 1879.	Rep. in part, by Act 12 of 1891. Rep. in part, by Act 16 of 1895. Rep. in part and amended by Act 23 of 1881.	149



Year.	No.	Short title or subject.	How repealed or otherwise affected in Bombay.	Page.
1	2	3	4	5
1879	XVII	The Dekkhan Agriculturists' Relief Act, 1879—(contd.)	Rep. in part and amended by Act 22 of 1882. Rep. in part and amended by Act 23 of 1886. Rep. in part and amended by Act 6 of 1895. Rep. in part and amended by Act 38 of 1920. Rep. in part and amended by Bom. Act 1 of 1912. Amended by Bom. Act 1 of 1902. Amended by Bom. Act 2 of 1907. Amended by Bom. Act 1 of 1910. Amended by Bom. Act 7 of 1927. Amended by Bom. Act 14 of 1932. Amended by Bom. Act 5 of 1935. Adapted and modified by the Adaptation of Indian Laws Order in Council.	
1881	XXI	The Broach and Kaira Incumbered Estates Act, 1881.	Amended by Bom. Act 2 of 1919. Rep. in part, by Act 38 of 1920. Declared not to be in force in the Panch Mahals, by Act 7 of 1885. Adapted and modified by the Adaptation of Indian Laws Order in Council.	185
1885	VII	The Panch Mahals Laws Act, 1885.	Repealed in part by Act 12 of 1891. Amended by Bom. Act I of 1910. Adapted and modified by the Adaptation of Indian Laws Order in Council.	199

*Chronological Tables.*

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Year.	No.	Short title or subject.	How repealed or otherwise affected in Bombay.	Page.
1	2	3	4	5
1888	XII	The City of Bombay Municipal (Supplementary) Act, 1888.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	201
1891	VIII	Easements (extending Act 5 of 1882).	....	205
1894	XV	The Engineers' Certificates Validation Act, 1894.	Rep. in part, by Act 10 of 1914.	207

# THE BOMBAY CODE.

## PART I.

### BOMBAY REGULATIONS.

#### BOMBAY REGULATION II OF 1827.<sup>1</sup>

[1st January 1827.]

Repealed in part by Act 1 of 1846 ;

” ” ” ” 10 of 1861 ;

” ” ” ” 10 of 1873 ;

” ” ” ” 12 of 1873 ;

” ” ” ” 12 of 1876 ;

” ” ” ” 18 of 1879 ;

(as amended by Act 1 of 1903) ;

” ” ” ” Bom. Act 6 of 1866 ; (locally), by Act 14 of 1869 ;  
and amended by Act 16 of 1895.

Repealed excepting part of Section 21 by Bom. Act 17 of 1920.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and offices thereof.

PREAMBLE *Rep. Act XIV of 1869.*

#### CHAPTER I.

[*Supreme Court of Sadr Adalat.*]

1 to 15. *Rep. Act XII of 1873.*

#### CHAPTER II.

OF ZILA COURTS, INCLUSIVE OF THE SUBSIDIARY COURTS OF THE ASSISTANT JUDGES.

16 to 20. [*Appointment of Judge ; his Court ; his seal ; his oath ; acting Judge.*] *Rep. Act XIV of 1869.*

<sup>1</sup> Sections 21, 47 to 54 and 56 of Bom. Reg. 2 of 1827 were declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, in force throughout the Province of Bombay, except as regards the Scheduled Districts, i. e., the villages belonging to the following Mehwaasi Chiefs :—

(1) The Parvi of Kathi.

(4) The Walvi of Gaohalli.

(2) The Parvi of Nal.

(5) The Wassawa of Chikhli.

(3) The Parvi of Singpur.

(6) The Parvi of Nawalpur.

<sup>1</sup> So much of Bom. Reg. 2 of 1827 as had not already been repealed (excepting the part of section 21 which prohibits interference of the Civil Courts in caste questions) was repealed in the whole of the Province of Bombay by Bom. 17 of 1920, s. 34 and Sch. I.

Caste-questions.

21. *First.*—The jurisdiction of the Civil Court shall extend to the cognizance of all original suits and complaints between Natives and others not British-born subjects, respecting the right to moveable or immoveable property, rents, Government-revenues, debts, contracts, marriage, succession, damages for injuries and generally of all suits and complaints of a civil nature<sup>1</sup>; it being understood that no interference on the part of the Court in caste-questions is hereby warranted, beyond the admission and trial of any suit instituted for the recovery of damages on account of an alleged injury to the caste and character of the plaintiff, arising from some illegal act or unjustifiable conduct of the other party.

*Second to Seventh.*—[Provisoes as to admission of suits ; jurisdiction over British-born subjects.] Rep. Acts X of 1861 and XIV of 1869.

22 to 33. [Jurisdiction ; superintendence of inferior Courts ; complaints against public officers ; control of civil jail ; subordination to higher Courts ; appointment of Judges ; oaths ; duties ; law officers ; nazir ; sherishtadar ; record-keeper ; administration of oaths.] Rep. Act XIV of 1869.

### CHAPTERS III AND IV.

[Appointment, Removal and Punishment of Officers of Courts ; Courts of Commissioners for deciding Civil Suits.]

34 to 44. Rep. Act. XIV of 1869.

### CHAPTER V.

[Courts for Recovery of Debts due by British Subjects.]

45, 46. Rep. Act X of 1861.

### CHAPTER VI.

#### OF PLEADERS.<sup>2</sup>

Authorized pleaders to hold sanads.

47. *First.*—Natives or others may be authorized to practise in each Court as pleaders (vakils)<sup>3</sup> in behalf of parties in any judicial proceedings, being qualified by sanad according to the rules in the succeeding section.

Persons allowed to act.

*Second.*—No person shall be allowed to act in any such proceeding except such pleaders, or the parties themselves or their recognized agents.

*Third.*—[Exception as to Court of Commissioner.] Repealed by Act I of 1846.

<sup>1</sup> S. 21, clause first (except so much as prohibits interference of the Civil Courts in caste-questions), was repealed by Act 10 of 1861 and Act 14 of 1869.

<sup>2</sup> See also ss. 13 [except clauses (a), (b), (c), (d) and (f)], 34, 36 and 40 of the Legal Practitioners Act, 1879 (18 of 1879), which have been extended to the Province of Bombay.

<sup>3</sup> Cf. Act 1 of 1846, ss. 4 and 5.

<sup>4</sup> Portion repealed by Act 12 of 1873 is omitted.

*Fourth.*—In matters to which <sup>1</sup>[the Crown or the Federal Railway Authority] is a party, it shall be lawful for a pleader to act on a general vakálatnáma, to be issued by the officer under whose control the said matters are conducted, provided a duplicate be deposited in the Zila Court of the district in which he practises. Government pleader may hold general vakálatnáma.

48. *First.*—The number of pleaders shall not be limited, but any person duly qualified and of unexceptionable character shall be entitled to a sanad of appointment. Number of pleaders unlimited.

*Second.*—[Qualifications; appointment how made.] *Rep. Act I of 1846.*

*Third.*—Each pleader, on being found qualified, shall be furnished with a sanad, under the seal of the Court of Sadr Diwání Adálat, in the form of Appendix J<sup>2</sup>. Sanads to be furnished.

49. The pleaders in the Zila Courts shall practise each in such particular Court or Courts as may be assigned to them by the Zila Judge, or indiscriminately in all the Courts of the respective Zila, if it be not found necessary to appropriate the pleaders to particular Courts. Practice of pleaders how regulated.

50. *First.*—A pleader shall not be allowed to act in any suit or proceeding until he has obtained from the party, and filed in Court, a power-of-attorney (vakálatnáma), according to the form contained in Appendix K, appointing him pleader in the cause. Pleader to file vakálatnáma.

*Second.*—If a party engages a pleader to act in his behalf, he shall present him with eight annas as a retaining fee, for which the pleader shall grant him a written acknowledgment, specifying the date of payment; and, if the said retaining fee be not offered, the pleader shall demand it, and abstain from all proceeding until it be delivered<sup>3</sup>. Retaining fee to be paid to pleader.

*Third.*—If, after receiving the retaining fee, a pleader shall engage with, or act for, the other party, or refuse or omit to act on behalf of his client, he may be punished by a fine not exceeding rupees five hundred; or, if the matter in litigation be less than rupees two hundred and fifty, then not exceeding twice the amount of the sum in dispute between the parties; or, if the circumstances are of an aggravated nature, may be suspended or dismissed <sup>4</sup> \* \* \*. Penalty for failure to perform engagement.

*Fourth.*—The fine may be inflicted by the Court in which the suit relative to which the failure of duty occurred may be pending \* \* \*. Court empowered to fine.

51. *First.*—[Representative character of pleader.] *Rep. Act X of 1861.*

<sup>1</sup> The words "the Crown or the Federal Railway Authority" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> Cf. Act I of 1846, ss. 4 and 5.

<sup>3</sup> Cf. Act I of 1846, ss. 7 and 8.

<sup>4</sup> The words and figures "under the rules contained in section 56 of this Regulation" were repealed by the Amending Act, 1895 (16 of 1895).

<sup>5</sup> Words repealed by Act 12 of 1873 are omitted. Cf. Act I of 1846, ss. 10 and 12.

Pleader to give receipts to client for papers and to return them when required. Penalty for misconduct.

*Second.*—It shall be incumbent on a pleader, at the time of receiving any accounts, writings or documents from his client, to give a written receipt for them, and to restore them when required, under penalty of a fine not exceeding rupees one hundred, to be levied under the <sup>1</sup>\* \* \* last clause of the preceding section; or, if the circumstances be of an aggravated nature, of suspension or <sup>2</sup>[dismissal] <sup>3</sup>\* \* \*.

Fees in original suits.

**52.** *First.*—Each pleader employed in prosecuting or defending an original suit shall be entitled to a percentage on the amount sued for, according to the rates specified in Appendix L, as a remuneration for his trouble in acting in behalf of his client, until the decree in the suit is passed, and thereafter until such decree is fulfilled.

In Appeals.

*Second.*—The remuneration to a pleader employed in prosecuting or defending an appeal, regular or special, shall be the same as is above prescribed in the case of an original suit.

Private agreement not barred.

*Third.*—The above rules shall not prevent an express agreement being entered into between pleader and client, for either a larger or smaller sum than the established fee.

Pleader to have excess when costs awarded against other party exceed amount agreed upon.

*Fourth.*—But, if a larger sum than was agreed for between a pleader and client is awarded in costs against the other party, the pleader, notwithstanding his agreement with his own client, shall be entitled to the excess when recovered.

*Fifth.*—[*Recovery of fees.*] *Rep. Act. XII of 1873.*

**53.** *First.*—[*Half-fees.*] *Rep. Act. XII of 1873.*

Several pleaders may be engaged, but without prejudice to opposite party.

*Second.*—Either party may engage two or more pleaders to conduct his suit or defence, but the party found liable in costs will not be answerable for more than the established fee of one pleader on behalf of the other party.

Client may withdraw his vakalatnama, but pleader not to withdraw without his consent or order of Court.

*Third.*—It shall be competent to a party at any time to withdraw the authority vested in a pleader to act in his behalf, on giving the Court notice in writing to that effect; but it shall not be competent to a pleader to withdraw from acting in behalf of his client without his consent or the special permission of the Court.

*Fourth.*—[*Fees in certain cases.*] *Rep. Act XII of 1873.*

Pleader's absence to be reported.

**54.** *First.*—If a pleader is unable to attend the Court in consequence of indisposition or other necessary cause, he shall notify the same to the Court in writing, in which case proceeding in the suit shall be stayed for such time as the Court deems reasonable, to enable the party to transfer by endorsement or otherwise his power-of-attorney (either temporarily

<sup>1</sup> The words "rules contained in the" were repealed by the Amending Act, 1895 (16 of 1895).

<sup>2</sup> The word "dismissal" was substituted for the word "dismission" by *ibid.*

<sup>3</sup> The words and figures "according to section 56 of this Regulation" were repealed by *ibid.*

<sup>4</sup> S. 52 is modified by ss. 6 and 7 of Act 1 of 1846.

or until the suit is determined) to another pleader; and any pleader absenting himself without written notice as above prescribed may be punished by fine not exceeding rupees one hundred, to be adjudged by the Court in which the failure of duty occurred, and levied as the amount of a decree by the same. \* \* \* \*<sup>1</sup>

*Second.*—In case of the resignation, dismissal or death of a pleader, proceedings in the suit shall in like manner be stayed \* \* \* \*<sup>1</sup>

55. [*Fees in certain cases.*] *Rep. Act I of 1846.*

56. A pleader accused of a criminal offence, or guilty of misbehaviour or neglect of duty, shall be liable to be suspended or dismissed \* \* \*<sup>2</sup>, but nothing herein contained shall prevent a party from instituting an action for damages against his pleader, when he may consider himself injured by his acts or omissions.

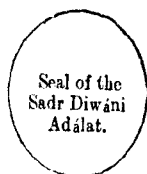
## APPENDICES A TO I.

[*Rep. Acts XII of 1876, X of 1873, XII of 1873, XII of 1876, and VI of 1866.*]

## APPENDIX J.

(*See section 48, clause third.*)

### FORM OF SANAD GRANTED TO A PLEADER.



To *A. B.*, inhabitant of——.

In conformity with the provisions of Regulation II, A.D. 1827, you, *A. B.*, are hereby appointed to the office of Pleader in the Court of——; you will not be liable to be removed from your situation during your good behaviour, while you discharge your duty with zeal and integrity, under the rules contained in the Regulations which now are or hereafter may be in force.

By order of the Sadr Diwani Adalat.

• •

(*Signed by the Registrar.*)

<sup>1</sup> Words repealed by Act 12 of 1873 are omitted.

<sup>2</sup> The words and figures "under the rules regarding Commissioners, contained in the third clause of section 38 of this Regulation" were repealed by the Amending Act, 1895 (16 of 1895).

## APPENDIX K.

(See section 50, clause first.)

FORM OF POWER-OF-ATTORNEY TO ENABLE A PLEADER TO ACT  
IN A SUIT.

IN THE COURT OF—

Suit for Rs. \_\_\_\_\_.

\_\_\_\_\_ Plaintiff,

against

\_\_\_\_\_ Defendant.

I \_\_\_\_\_ plaintiff (or defendant, as the case may be) do hereby authorize  
\_\_\_\_\_ to appear and act as Pleader for me in the above suit.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_\_.

(Signed or the mark of)	}	The Plaintiff
		or
		Defendant.

## APPENDIX L.

(See section 52, clause first.)

STATEMENT SHOWING THE FEES TO WHICH PLEADERS ARE ENTITLED  
FOR ACTING THROUGHOUT ORDINARY SUITS WHEN THERE IS NO  
SPECIFIC AGREEMENT.

The Pleader's fee is	}	in suits for not more than Rs. 2,000 .. three per cent.
		in suits for from Rs. 2,000 to 10,000 inclusive—
		on Rs. 2,000 as above, and on the remainder .. two per cent.
		in suits for from Rs. 10,000 to 20,000 inclusive—
		on Rs. 10,000 as above, and on the remainder .. one per cent.
	}	in suits for more than Rs. 20,000—
		on that sum as above, and on the remainder .. half per cent.



BOMBAY REGULATION IV OF 1827.<sup>1</sup>

[1st January, 1827.]

Repealed in part, by Act 10 of 1861 ;

” ” ” ” ” 17 of 1862 ;

” ” ” ” ” 6 of 1874 ;

” ” ” ” (locally), by Act 14 of 1869 ;

” ” ” ” (locally), by Bom. 5 of 1879.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

A Regulation prescribing the forms of proceeding of the Courts of Law in civil suits and appeals, and rules for the trial of the same.

PREAMBLE. *Rep. Act X of 1861, and again by Act XIV of 1869.*

1 to 25. *Rep. Acts X of 1861 and XIV of 1869.*

26. The law to be observed in the trial of suits shall be Acts of Parliament and [Indian Laws] applicable to the case, in the absence of such Acts and Regulations, the usage of the country in which the suit arose ; if none such appears, the law of the defendant ; and, in the absence of specific law and usage, justice, equity and good conscience alone.

27 to 100. *Rep. Acts X of 1861 ; XVII of 1862 ; XIV of 1869 ; VI of 1874 ; and, 2nd and 3rd clauses of s. 69 (locally), Bom. 5 of 1879.*

## APPENDICES A TO S.

[*Rep. Act X of 1861.*]BOMBAY REGULATION V OF 1827.<sup>3</sup>

[1st January, 1827.]

Repealed in part, by Act 28 of 1855 ;

” ” ” ” ” 9 of 1871 ;

” ” ” ” ” 12 of 1873 ;

” ” ” ” ” 12 of 1876 ;

” ” ” ” ” 4 of 1894 ;

” ” ” ” (locally), by Act 17 of 1879, s. 12 ;

” ” ” ” (locally), by Act 4 of 1882.

A Regulation \* \* \* \* \* containing rules of judication respecting written acknowledgments of debts executed without receipt

<sup>1</sup> S. 26 and s. 69, cl. second and third, of Bom. Reg. 4 of 1827 were declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay, except as regards the Scheduled Districts.

<sup>2</sup> The words “ Indian Laws ” were substituted for the words “ Regulations of Government ” by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The Preamble and ss. 9, 14 and 15 of Bom. Reg. 5 of 1827 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay, except as regards the Scheduled Districts, i. e., the villages belonging to the following Mehwassee Chiefs :—

(1) The Parvi of Kathi.

(2) The Parvi of Nal.

(3) The Parvi Singpur.

(4) The Walwi of Gachalli.

(5) The Wassawa of Chikhli.

(6) The Parvi of Nawalpur.

<sup>4</sup> The words “ defining the limitations, as to time, within which civil actions may be prosecuted and ” and the word “ interest ” were repealed by the Repealing Act, 1876 (12 of 1876).

8 *Acknowledgment of debts ; Interest ; Mortgages* [1827 : BOM. REG. V  
of a full consideration, also regarding \* \* \* the tendering payment  
of debts, and the disposal of property mortgaged or pledged.

Preamble. \* \* \* \* \* WHEREAS justice, the interests of trade, and the  
easy and secure transaction of money-dealings require that the effect of  
written acknowledgments of debts, when the receipt of a full consideration  
is contested, should be defined and made known, and that certain  
provisions should be framed \* \* \* \* \* for determining the effects  
of tenders of payment, and the rights of parties concerned in property  
mortgaged or pledged ;

the following rules have therefore been enacted \* \* \* \* \*

## CHAPTER I.

[*Limitation.*]

1 to 8. *Rep. Act IX of 1871.*

## CHAPTER II.

### OF ACKNOWLEDGMENTS OF DEBTS EXECUTED WITHOUT RECEIPT OF A FULL CONSIDERATION IN VALUE.

Proof of amount of debt. 9. \* *First.*—Written acknowledgments of debt in any shape shall not  
be held conclusive in a Court of Law as to the amount, if the defendant  
show that a full consideration has not been received.

Proof in case of cultivator sued on writing executed out of British jurisdiction. *Second.*—And in the case of a cultivator of the soil, sued upon a written  
acknowledgment executed at a place which was not at the time of such  
execution under British jurisdiction, if the circumstances are such as to  
convince the Court that the creditor might reasonably be expected to  
possess other proof of the amount besides such written acknowledgment  
(the consideration received for the same being contested) then the said  
writing shall not be held conclusive as to the amount, whether the defen-  
dant prove a deficiency in the consideration or not, but the Court shall  
pass a decree for only such amount as the claimant may otherwise prove  
to be due.

<sup>1</sup> The words "defining the limitations, as to time, within which civil actions may be prosecuted and" and the word "interest" were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>2</sup> The words "Whereas it is conducive to the public security and the quieting of disputes, that limitations should be prescribed to the period within which civil suits may be instituted and," the words "for the calculation of the interest of money, and for limiting the amount thereof, and," and the words "to have effect from such date as shall be prescribed in a Regulation to be hereafter passed for that purpose" were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>3</sup> S. 9, *clause first*, is repealed, locally, so far as regards any suit to which section 12 of the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879), applies—see Act 17 of 1879, s. 12 (to be read with a. 1).

### CHAPTER III.

[*Rate and continuance of Interest.*]

10 to 12. *Rep. Act XXVIII of 1855.*

13. *Rep. Act XII of 1873.*

### CHAPTER IV.

HOW A CLAIM TO INTEREST IS AFFECTED BY TENDER OF PAYMENT.

14. If a debtor can prove that he has tendered to a creditor the whole or any portion of the amount due, all further interest shall cease on the amount tendered. Interest ends upon tender made.

### CHAPTER V.

OF THE DISPOSAL OF PROPERTY MORTGAGED OR PLEDGED.

15. *First.*—When a creditor is placed in possession of property by mortgage or otherwise, as security for a debt, his claim over such property shall, in the absence of other special agreement, constitute his sole security for payment of the debt, or such part of it as the said property may have been given in security for, and interest thereon is to be considered as included in the said security.

*Second.*—If the property yield profit, and no stipulation has been made respecting the disposal of the said profit, or payment of interest on the debt, the profit shall be considered as equivalent for the interest.

*Third.*—In the absence of any special agreement, or recognised law or usage to the contrary, either party may at any time, by the institution of a civil suit, cause the property to be applied to the liquidation of the debt, the surplus, if any, being restored to the owner.

### APPENDICES A AND B.

[*Rep. Acts XII of 1873 and IV of 1894, respectively.*]

<sup>1</sup> S. 15 is repealed by the Transfer of Property Act, 1882 (4 of 1882), in the whole of the Province of Bombay other than the Scheduled Districts, i.e. the villages belonging to the following Mehwaasi Chiefs :—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walvi of Gaohali.   |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.  |

*See* Notification No. 5947, dated the 27th October 1892, *Bombay Government Gazette*, 1892, Pt. I, p. 1071.

BOMBAY REGULATION VIII OF 1827.<sup>1</sup>

[1st January 1827.]

Repealed in part, by Act 12 of 1873.

Application of s. 10 restricted (locally), by Bom. 4 of 1890, sec. 58 (3).

Adapted and modified by the Adaptation of Indian Laws Order in Council.

A Regulation to provide for the formal recognition of heirs, executors and administrators, and for the appointment of administrators and managers of property by the Courts.

**Preamble.** WHEREAS, at the same time that it is in general desirable that the heirs, executors or legal administrators of persons deceased should, unless their right is disputed, be allowed to assume the management or sue for the recovery for property belonging to the estate, without the interference of Courts of justice, it is yet in some cases necessary or convenient that such heirs, executors or administrators, in order to give confidence to persons in possession of, or indebted to, the estate to acknowledge and deal with them, should obtain a certificate of heirship, executorship, or administratorship, from the Zila Court ;

And whereas, whenever there is no person on the spot entitled or willing to take charge of the property of a person deceased, or when the right of succession is disputed between two or more claimants, none of whom has taken possession or where the heirs are incompetent to the management of their affairs and have no near relations entitled and willing to take charge on their behalf, or where a person possessed of property dies intestate and without known heirs, it is essential that the Zila Court should appoint an administrator for the management of the estate ;

the following rules are therefore enacted \* \* \* \* \*

<sup>1</sup> Bom. Reg. 8 of 1827 was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwasii Chief :—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walvi of Gaohalli.  |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.  |

As to Court-fees on certificates granted under this Regulation, see clause *iii* of s. 19, and article 12A of Sch. I of the Court-fees Act, 1870 (7 of 1870).

As to the application of certain provisions of the Indian Succession Act, 1925 (39 of 1925), to certificates granted under this Regulation, to applications made for such certificates and to the exhibition of inventories and accounts by holders of such certificates, see s. 390 of Act 39 of 1925.

The grant of probate or letters of administration under the Indian Succession Act, 1925 (39 of 1925), in respect of an estate supersedes any certificate previously granted under Part X of the said Act or under the Succession Certificate Act, 1889 or Bombay Regulation No. VIII of 1827, in respect of any debts or securities included in the estate, see sec. 215 of Act 39 of 1925.

As to grant of certificate under the Indian Succession Act, 1925 (39 of 1925), on production of a certificate granted under this Regulation, see s. 214 of that Act.

<sup>2</sup> The words "to take effect from such date as shall be prescribed in a Regulation to be hereafter passed for that purpose" were repealed by the Repealing Act, 1873 (12 of 1873).

## CHAPTER I.

## RULES FOR THE RECOGNITION OF HEIRS, EXECUTORS AND ADMINISTRATORS WHEN THERE IS A COMPETENT CLAIMANT.

1. Whenever a person dies leaving property, whether moveable or immoveable, the heir or executor, or legal administrator, may assume the management, or sue for the recovery, of the property, in conformity with the law or usage applicable to the disposal of the said property, without making any previous application to the Court to be formally recognized.

Legal heir, etc., of person deceased competent to represent him without recognition from Court.

2. *First.*—But if an heir, executor or administrator is desirous of having his right formally recognized by the Court, for the purpose of rendering it more safe for persons in possession of, or indebted to, the estate to acknowledge and deal with him, the Judge, on application, shall issue a proclamation, in the form contained in Appendix A, inviting all persons who dispute the right of the applicant to appear in the Court within one month from the date of the proclamation and enter their objections, and declaring that, if no sufficient objection is offered, the Judge will proceed to receive proof of the right of the applicant, and, if satisfied, grant him a certificate of heirship, executorship or administratorship.

But if such recognition requested, proclamation will be issued.

*Second.*—[Publication of proclamation.] Rep. Act XII of 1873.

3. If, at the expiration of the time mentioned in the proclamation, no sufficient objection has been made, the Court shall forthwith receive such proof as may be offered of the right of the person making the claim, and, if satisfied, shall grant a certificate in the form contained in Appendix B, declaring him the recognized heir, executor or administrator of the deceased.

If no objection appears, recognition to be granted.

4. *First.*—If, before the expiration of the time, any objection is made to the right of the person claiming as heir, executor or administrator, the Judge, on a day to be fixed (of which at least eight days' previous notice shall be given to the parties) shall summarily investigate the grounds of the objections on the one hand, and of the right claimed on the other, examining such witnesses or other evidence as may be adduced by the parties, and either grant or refuse a certificate, as the circumstances of the case may require.

Objection appearing, to be examined, and recognition given or refused accordingly.

*Second.*—But if, from the evidence adduced, it appears that the question at issue between the parties is of a complicated or difficult nature, the Judge may suspend proceedings in the application for a certificate until the question has been tried by a regular suit instituted by one of the parties.

If question is complicated or difficult, matter to be left for adjudication

5. Whenever an executor is formally recognised, under the rule contained in section 4, the authenticity of the will, if any, by which he is appointed, shall be proved, and the certificate of executorship shall be endorsed thereon.

Authenticity of wills and recognitions how certified.

6. [Wills and recognitions to be registered.] Rep. Act XII of 1873.

Recognized heir, etc., competent to manage property.

7. *First.*—An heir, executor or administrator, holding the proper certificate, may do all acts and grant all deeds competent to a legal heir, executor or administrator, and may sue and obtain judgment in any Court in that capacity.

But recognition gives no title to property,

*Second.*—But, as the certificate confers no right to the property, but only indicates the person who, for the time being, is in the legal management thereof, the granting of such certificate shall not finally determine nor injure the rights of any person; and the certificate shall be annulled by the Zila Court, upon proof that another person has a preferable right.

nor relief from responsibility to claimants.

*Third.*—An heir, executor or administrator, holding a certificate, shall be accountable for his acts done in that capacity to all persons having an interest in the property, in the same manner as if no certificate had been granted.

Refusal of a recognition no judgment against claim of applicant.

8. The refusal of a certificate by the Judge shall not finally determine the rights of the person whose application is refused, but it shall still be competent to him to institute a suit for the purpose of establishing his claim.

## CHAPTER II.

### OF THE APPOINTMENT OF AN ADMINISTRATOR BY THE ZILA COURT, WHEN THERE IS NO HEIR OR EXECUTOR COMPETENT AND WILLING TO BE PLACED IN POSSESSION.

When heir, etc., is present but undetermined, or incompetent,

Judge may appoint administrator,

to be duly accountable when emergency at end.

If heir, etc., unknown, administrator to be appointed,

and proclamation issued,

9. Whenever there is no person on the spot entitled and willing to take charge of the property of a person deceased, where the right of succession is disputed between two or more claimants, none of whom has taken possession, or where the heirs are incompetent to the management of their affairs from infancy, insanity or other disqualification, and have no near relations entitled and willing to take charge on their behalf, the Judge, within whose jurisdiction such property is, may appoint an administrator for the management thereof, until the lawful heir, executor or administrator appears, or the right of succession is determined, or the disqualification of the heir is removed, as the case may be, when the Judge, on being satisfied of the facts, shall direct the administrator in charge to deliver over the property to such person, with a full account of all receipts and disbursements during the period of his administration.

10. *First.*—Whenever any person dies intestate, and without known heirs, leaving property, the Judge, within whose jurisdiction the property is, shall appoint an administrator for the management thereof; and shall issue a proclamation in the form contained in Appendix C, calling upon the heir of the deceased or any person entitled to receive charge of the property, to attend and prefer his claim.

<sup>1</sup> S. 10 does not apply to intestate property which is dealt with by a Magistrate under the Bombay District Police Act, 1890 (Bom. 4 of 1890), s. 58 (3).

*Second.*—The proclamation shall be published, <sup>1 \* \* \* \*</sup> and if the <sup>and</sup> deceased was a Native of any district or country without the limits of the <sup>published.</sup> Court's jurisdiction, and the property is of the value of rupees one thousand (1,000) <sup>1 \* \* \* \* \*</sup> or upwards, the proclamation shall also be published in the <sup>1 \* \* \* \* \*</sup> Official Gazette.

*Third.*—If any person appears and satisfies the Judge of his right to <sup>Heir, etc.,</sup> the possession of the property or any part of it as heir, executor, admini- <sup>appearing to</sup> strator or otherwise, it shall be delivered up to him, after deducting <sup>be put in</sup> the necessary expenses of management. <sup>possession,</sup>

*Fourth.*—But, if no person appears and establishes his right, the Judge, <sup>and if no heir</sup> on the 31st December next after the completion of twelve months from <sup>appears,</sup> the appointment of the administrator, shall make a report of the circum- <sup>reference to</sup> stances of the case to the Sadr Diwáni Adálat, accompanied by an <sup>Sadr</sup> inventory and valuation of the property ; and it shall be lawful for the <sup>Diwáni</sup> Sadr Diwáni Adálat either to direct the property to continue for a further <sup>Adálat,</sup> period under the management of the administrator, or to be sold by him <sup>who will</sup> under the authority of the Court, and the proceeds to be deposited in the <sup>grant time, or</sup> public treasury for the eventual benefit of all concerned. <sup>order sale and</sup> <sup>proceeds to be</sup> <sup>deposited.</sup>

11. Whenever an administrator is appointed by the Judge under <sup>Administra-</sup> sections 9 and 10 of this Regulation, he shall, previously to entering upon <sup>tors appointed</sup> the execution of his office, give security in a sum to be fixed by the Judge <sup>by Court to</sup> for the faithful discharge of his trust, and he shall be entitled to such <sup>give security,</sup> remuneration as the Judge may fix for his trouble, but subject to <sup>and to be</sup> modification by the Sadr Diwáni Adálat, on the complaint of any person <sup>remunerated</sup> interested. <sup>at discretion</sup> <sup>of Judge.</sup>

APPENDIX A.

*Form of Proclamation to be issued when a person applies to be recognized as heir, executor or administrator of one deceased.*

PROCLAMATION.

IN THE COURT OF THE ZILA OF

WHEREAS *A.B.*, inhabitant of \_\_\_\_\_, died at \_\_\_\_\_ on or about the day of \_\_\_\_\_, and whereas *C.D.*, inhabitant of \_\_\_\_\_, has presented an application to the Judge of the said zila for the purpose of being formally recognized as heir [executor or administrator, as the case may be] of the said *A.B.*, this is to give notice to all persons who may dispute the right of the said *C.D.*, as heir [executor or administrator, as the case may be] of the said *A.B.*, to appear in the Court of the said zila within one month from the date of this proclamation, there to enter their objections ; and it is hereby declared that if no sufficient objection is offered before the

<sup>1</sup> The words " in the manner prescribed in Reg. IV, A. D. 1827, section VIII, clause tenth ", the words " local currency " and the words " Bombay Courier or other " were respectively repealed by the Repealing Act, 1873 (12 of 1873).

<sup>2</sup> The words " Official Gazette " were substituted for the words " Government newspaper " by the Adaptation of Indian Laws Order in Council.

expiration of that period, the said Judge will forthwith proceed to receive proof of the said *C.D.*'s right, and to grant him, provided he shall appear entitled thereto, a certificate of heirship [executorship or administratorship, *as the case may be*] of the said *A.B.*, deceased.

Dated at            this            day of

(Signed) { *By the Judge,*  
*Senior Assistant Judge,*  
*or*  
*Junior Assistant Judge.*

#### APPENDIX B.

*Form of Certificate to be granted to the recognized heir, executor or administrator of one deceased.*

##### IN THE COURT OF THE ZILA OF

WHEREAS *A.B.*, inhabitant of           , died at            on or about the            day of           , and application was made by *C.D.*, inhabitant of           , to the Judge of the said Court, to be formally recognized as heir [executor or administrator, *as the case may be*] of the said *A.B.*; and, whereas the usual proclamation having been issued, no sufficient objection was offered to the right of the said *C.D.*; and whereas the said *C.D.* thereupon gave proof to the satisfaction of the Court of his right to be recognized as heir [executor or administrator, *as the case may be*] of the said *A.B.*:

This, therefore, is to certify that the said *C.D.* is the recognized heir [executor or administrator] of the said *A.B.* deceased.

Dated at            this            day of

(Signed) { *By the Judge,*  
*Senior Assistant Judge,*  
*or*  
*Junior Assistant Judge.*

#### APPENDIX C.

*Form of Proclamation to be issued when a person dies intestate, and without known heirs, leaving property.*

#### PROCLAMATION.

##### IN THE COURT OF THE ZILA OF

WHEREAS *A.B.*, inhabitant of           , died at            on or about the            day of           , leaving the following property at           , within the said zila, namely, [*here specify the property*]; and whereas no will of the said *A.B.*



has been found, nor is it known if he has any heirs : This is to give notice to all persons claiming to be heirs, or to be entitled to receive charge of the said property, to attend and prefer their claim in the said Court, in order that, on such claim being proved, the said property may be delivered up to them.

Dated at this day of

(Signed) { *By the Judge,*  
*Senior Assistant Judge,*  
*or*  
*Junior Assistant Judge.*

### BOMBAY REGULATION XII OF 1827.<sup>1</sup>

[1st January 1827.]

Repealed in part, by Act 3 of 1857 ; 17 of 1862 ; 10 of 1872 ; 10 of 1873 ; 12 of 1873 ; 12 of 1876 ; 4 of 1894 ; Bom. Acts 6 of 1866 ; 7 of 1867 ; 8 of 1867 ; 2 of 1870.

Repealed in part (locally), by Bom. 4 of 1890.

Repealed in part and amended, by Bom. 3 of 1886.

Supplemented, by Act 2 of 1889.

Repealed in part, by Bom. 15 of 1932.

*A Regulation for the establishment of a system of Police throughout the zilas subordinate to Bombay, for providing rules for its administration, and for defining the duties and powers of all Police-authorities and servants.*

**PREAMBLE.** *Rep. Act XVII of 1862 and again Act XII of 1876.*

**1 to 18.**—*Rep. Acts XVII of 1862, VII of 1867, VIII of 1867, II of 1870, X of 1872 and X of 1873.*

<sup>1</sup> S. 19, s. 20, s. 27, clause *second*, and s. 37, clauses *first* and *second*, of Bom. Reg. 12 of 1827 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5 and Sch. 3 as amended by Act 12 of 1891, General Acts, to be in force in the whole of the Province of Bombay (except as regards the Scheduled Districts, i.e. the villages belonging to the following Mehwassī Chiefs :—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walvi of Gaohalli.  |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.  |

Power to make rules as to resort to dharmśālas, etc.

<sup>1</sup> 19. *First*.—It shall be lawful for the <sup>2</sup>[District Magistrate], when the public benefit and comfort is in question, to institute rules respecting dharmśālas, liquor-shops, public wells, town-gates, and generally all places of public resort, regulating the hours at which they are to be open, the manner in which they are to be used, the equal and appropriate application of their accommodations, and such matters as conduce to maintaining orderly conduct among those who resort to them.

*Second to Fifth*.—[Cutting firewood, etc.; removal of nuisances and combustible substances.] *Rep. Act XVII of 1862.*

Publication of rules and submission to Sadr Faujdāri Adālat.

*Sixth*.—In exercising the authority conferred by this section, the <sup>2</sup>[District Magistrate] shall commence by issuing an injunction, which, if a particular individual be concerned, shall be personal to him, otherwise it shall be notified by oral proclamation made, and written notice fixed and kept, at such place or places as may be best adapted to convey information to the public, or the class concerned; a copy of which shall, at the same time, be forwarded to the Court of Sadr Faujdāri Adālat, and it shall remain in force, unless forbidden by that Court: and should any person persist in disobeying the injunction, <sup>3</sup> [any Magistrate] may compel observance thereof by force, and punish disobedience by fine not exceeding one month's computed average income of the culprit, <sup>4</sup> [simple] imprisonment \* \* \* not exceeding one month, \* \* \* or any of these combined \* \* \*.

Punishment for violating rules.

Person deeming private rights infringed may try case in Civil Court.

*Seventh*.—Provided, however, that, in all questions arising out of the preceding clause of this section, it shall be competent to any individual who may deem himself possessed of a private right, which cannot equitably be interfered with, to file a suit in the Civil Court against the <sup>2</sup>[District Magistrate] to support his claim, and the <sup>5</sup>[Magistrate before whom proceedings against such individual are being held], if applied to, shall stay his proceedings for a reasonable period to allow of such suit being instituted <sup>9</sup>\* \* \*.

<sup>1</sup> The portions of s. 19 here printed are repealed by the Bombay District Police Act, 1890 (Bom. 4 of 1890), s. 2, wherever that Act extends.

<sup>2</sup> "District Magistrate" was substituted for "Magistrate" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

<sup>3</sup> "Any Magistrate" was substituted for "the Magistrate" by *ibid.*

<sup>4</sup> The word "simple" was substituted for the word "ordinary" by *ibid.*

<sup>5</sup> The words "without labour" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

<sup>6</sup> The words "personal restraint" were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>7</sup> Words having reference to expenses for removing noxious or dangerous articles or buildings were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>8</sup> These words were substituted for the word "Magistrate" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Sch. B.

<sup>9</sup> The words "which shall be tried by the Judge or one of his assistants exclusively" were repealed by the Repealing Act, 1876 (12 of 1876).

*Eighth.*—1 \* \* \* \* \* 2 [Any Magistrate may] take charge of property found without an owner, and if the provisions of 3 Regulation VIII, A.D. 1827, Chapter II, do not apply to the case, shall retain it for the eventual benefit of the said owner, on his defraying any expenses incurred; but, at any period, when these may have amounted to the computed value of the property, it may be sold to defray the same. Any Magistrate may take charge of property left without owner.

20. [District Magistrates to keep standards of weights and measures]. *Rep. Bom. XV of 1932.*

21. *Rep. Act XVII of 1862.*

22. *Rep. Act VIII of 1867.*

23 to 26. *Rep. Act XVII of 1862.*

27. *First.*—[*Imprisonment in default of recognizance or security*]. *Rep. Act XVII of 1862.*

*Second.*—But the 4 [District Magistrate] is not precluded from adopting precautionary measures of a more lenient nature, in the case of a person who may be unable to furnish satisfactory recognizance or security for his attendance; such as, provided the 4 [District Magistrate] considers them sufficient for the purpose, allowing the party to remain under the inspection of some trustworthy person possessing influence over his conduct, or at some place of public resort, under charge of persons in usual attendance there; and similar measures may, under similar circumstances, be adopted to secure the good conduct of a suspected person; in which case additional restrictions may be made, as suggested by the party's habits, and the evil apprehended, such as prohibiting his leaving his residence, or certain limits, at particular times, or providing himself with a horse or arms, or any other restrictions which will not unreasonably affect his personal liberty, or deprive him of the means of procuring a livelihood; all which restrictions shall be notified to the party in writing, a copy thereof, with his signature, in token of assent, being kept by the 4 [District Magistrate] and any breach thereof shall be punishable by 5 [simple] imprisonment 6 \* \* \* for a period not exceeding six months which penalty also shall be inserted in the instrument. Powers in respect of precautionary measures.

28 to 36. *Rep. Act XVII of 1862 and Bom. VII of 1867.*

<sup>1</sup> The words "the Magistrate shall always be authorized to take charge of stray animals and to detain them either at the sudder station or at the place where found; and if the owners apply and pay the expenses incurred within two months, the animals shall be returned to them; otherwise they shall be sold by public auction and the proceeds, after deducting expenses incurred, shall be paid to the owners on demand" were repealed by Act 3 of 1857.

<sup>2</sup> These words were substituted for the words "The Magistrate shall also" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B.

<sup>3</sup> *Supra.*

<sup>4</sup> "District Magistrate" was substituted for "Magistrate" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

<sup>5</sup> "Simple" was substituted for "ordinary" by *ibid.*

<sup>6</sup> The words "without hard labour" were repealed by *ibid.*

18 *Police (Duties and Powers of Magistrates)* [1827 : BOM. REG. XII]  
*Criminal Courts (Substitution of letter for Summons)* [1827 : BOM. REG. XIII]

Villages liable to fine in case of robbery committed within their bounds.

37. *First.*—When robbery has been committed within the boundary of a village, or the perpetrators of a robbery have been satisfactorily traced thereto, and neglect or connivance be charged against the inhabitants or the police-establishment, with regard to prevention, detection or apprehension, it shall be competent to the<sup>1</sup> [District or Sub-Divisional Magistrate] to investigate the matter as a criminal offence, and, if the fact be well substantiated, to exact a fine not exceeding the value of the property lost, the whole or part of which may be awarded in compensation to the owner, according as the degree of caution and activity which he evinced on the occasion may deserve.

Levy of fines. *Second.*—If the fine be awarded against the inhabitants at large, it shall be realized by the Collector in the same manner as revenue-demands, and paid to the order of the Magistrate; if against individuals of the police-establishment, it shall be levied<sup>2</sup> \* \* \* \* \* as directed for fines in general<sup>2</sup> \* \* \* \* \*

*Third.*—[Orders by Court of Circuit.] *Rep. Act X of 1872.*

38 to 53. *Rep. Act X VII of 1862 and Bom. VII and VIII of 1867.*

APPENDICES A to M.

[*Rep. Bom. VI of 1866 and XVII of 1862, XII of 1876 and IV of 1894.*]

BOMBAY REGULATION XIII OF 1827.<sup>3</sup>

		[1st January 1827.]	
Repealed in part, by	Act	17	of 1862;
“ “ “ “	”	10	of 1872;
“ “ “ “	”	24	of 1872;
“ “ “ “	”	10	of 1873;
“ “ “ “	”	12	of 1873;
“ “ “ “	”	12	of 1876;
“ “ “ “	”	4	of 1894;
“ “ “ “	Bom.	4	of 1865;
“ “ “ “	Bom.	6	of 1866.

A Regulation for defining the constitution of Courts of Criminal Justice and the functions and proceedings thereof.

PREAMBLE. *Rep. Act XII of 1873.*

1 to 34. *First, Second.*—*Rep. Acts XVII of 1862, X of 1872 and XII of 1873.*

<sup>1</sup> “ District or Sub-Divisional Magistrate ” was substituted for “ Magistrate ” by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

<sup>2</sup> The words “ by imprisonment in commutation ” and the words, figures and letters “ in Regulation XIV, A.D. 1827, s. 9, ” were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>3</sup> S. 34, clause *third*, of Bom. Reg. 13 of 1827 (in so far as it authorizes the occasional substitution of a letter for a summons) was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay (except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwasai Chiefs :—

- |                         |                             |
|-------------------------|-----------------------------|
| (1) The Parvi of Kathi. | (4) The Walwi of Gaohalli.  |
| (2) “ “ Nal.            | (5) The Wassawa of Chikhli. |
| (3) “ “ Singpur.        | (6) The Parvi of Nawalpur.  |

1827 : BOM. REG. XIII] *Criminal Courts (Substitution of letter for* 19  
1827 : BOM. REG. XXII] *Summons) Military Authority (Assistance to*  
*Marching Troops)*

34. *Third.*—A Magistrate to whom a summons has been forwarded for execution may, if he see sufficient cause, either reduce or increase the amount of penalty or period of imprisonment stated in the summons, specifying his reason for the same in his return,<sup>1</sup> and it shall be competent to a Court \* \* \* \* \* when the attendance of a public officer in permanent official employ, or of an individual of known respectability and prudent demeanour is required, to notify the same to him by written order or letter, and take no other security than his returning the same with an endorsement signifying his acquiescence. Substitution  
of letter for  
summons.

34. *Fourth to Eighth, to 46.* *Rep. Acts XVII of 1862, XXIV of 1872, X of 1873 and Bom. IV of 1865.*

#### APPENDICES A TO N.

[*Rep. Act IV of 1894 and Bom. VI of 1866.*]

#### BOMBAY REGULATION XXII OF 1827.<sup>3</sup>

[1st January 1827.]

Repealed (except ss. 40 to 43), by Act 13 of 1889:

Repealed in part, by Act 12 of 1873.

Amended, by Bom. 3 of 1886.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

A Regulation to declare and define military authority, in its relations to the civil power and to the community at large.

PREAMBLE. *Rep. Act XIII of 1889:*

#### CHAPTERS I TO VI.

[*Courts-martial ; Military Courts having civil and criminal jurisdiction ; Police ; Aid by Civil Authorities to Military Tribunals ; Military Courts of Requests ; Offences cognizable in Civil Court ; Limits of Cantonments ; Superintendent of Bazars ; Process by Civil Authority ; Camp-followers.*]

1 to 39. *Rep. Act XIII of 1889.*

<sup>1</sup> S. 34, clause *third*, except in so far as it authorizes the occasional substitution of a letter for a summons, was repealed by Act 17 of 1862.

<sup>2</sup> The words "or to the Magistrate above-mentioned" were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>3</sup> Ss. 40 to 43 of Bom. Reg. 22 of 1827 were declared, by the Laws Local Extent Act 1874 (15 of 1874), s. 5, and Sch. 3 as amended by Act 13 of 1889, to be in force in the whole of the Province of Bombay, except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwassi Chiefs:—(1) The Parvi of Kathi, (2) the Parvi of Nal, (3) The Parvi of Singpur, (4) The Walvi of Gaothalli, (5) the Wassawa of Chukhli and (6) the Parvi of Nawalpur.

CHAPTER VII.

OF THE AID WHICH MAY BE FURNISHED BY CIVIL AUTHORITIES TO EXPEDITE THE MARCH OF MILITARY FORCES, AND OF COMPENSATION TO INDIVIDUALS FOR DAMAGE CAUSED BY THE TROOPS ON SUCH OCCASIONS.

Notice to District Magistrates through whose jurisdiction troops pass.

40. When military bodies, exceeding in number two hundred (200) of infantry, or one hundred (100) of cavalry, shall have occasion to march through a British territory, and also, if the number be smaller, provided they will require aid from the local authority, the commanding officer shall give timely notice to each <sup>1</sup>[District Magistrate] through whose jurisdiction he will pass, specifying the probable time of his arrival, the extent of the corps, and the nature of the aid (if any) which will be required.

Aid to be furnished by District Magistrate.

41. *First.*—If it be required, the <sup>2</sup>[District] Magistrate shall direct his establishment to be in readiness to procure guides, and such supplies of provisions as the country may furnish, and such conveyance for passing rivers or ghats, or any peculiarly difficult places, as is professionally provided by the inhabitants for such purposes.

How paid for.

*Second.*—Provisions and conveyance supplied as above mentioned to individuals shall be paid for by them at the time and at the current rate of the place, the guides and conveyance for public property shall be paid for at the same rate by the Collector of the district, according to a certificate which the commanding officer is to grant, denoting the services performed : and the Collector is to insert the amount so disbursed at the foot of his treasury-account, in explanation of his treasury-balance as prescribed for similar cases.

On emergent occasions aid may be procured by impressment.

42. *First.*—When emergent occasions require the immediate march of troops, and more extensive aid towards it than is allowed by the preceding section is necessary, the <sup>2</sup>[District] Magistrate may resort to impressment under the following rules, being careful to define the nature of the employment for which the impressment is made, and the period it is to continue.

What considered as constituting emergency.

*Second.*—The <sup>2</sup>[District] Magistrate's authority for acting as in the preceding clause shall be either an order from the <sup>3</sup>[Central Government] or a letter from the commanding officer declaring his inability to proceed without the <sup>1</sup>[District Magistrate's] aid, and fully explaining the circumstances which render the movement of paramount importance to the general inconvenience occasioned by impressment, on receipt of which the <sup>1</sup>[District Magistrate] will act at discretion.

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<sup>1</sup> "District Magistrate" was substituted for "Magistrate" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. I of 1904).

<sup>2</sup> "District" was substituted for "local" by *ibid.*

<sup>3</sup> The words "Central Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

*Third.*—Remuneration for services or supplies procured by impressment is to be fixed by the <sup>1</sup> [District Magistrate] on a liberal scale, and paid according to the principles of clause second, section 41, of this Regulation, namely, individuals are to pay for that which is personal accommodation, and the Collector is to defray the charges incurred for the public service under the above-quoted rules. Remuneration how made.

*Fourth.*—Whenever impressment shall take place by virtue of this section, the <sup>1</sup> [District Magistrate] shall, within ten (10) days, report the fact, with the cause and extent of impressment, and the rates of remuneration allowed <sup>2</sup> to the <sup>3</sup> [Central Government] \* \* \* \*. Report as to impressment.

43. *First.*—When damage is occasioned to individuals by the march or encampment of troops, the commanding officer shall, on application by the sufferer, furnish him with a certificate of the nature, extent and cause thereof. Certificate to be furnished to person sustaining injury.

*Second.*—The certificate mentioned in the preceding clause shall, if presented to the Collector or any of his officers holding charge of a district within ten (10) days from its date, entitle the sufferer to compensation for loss occasioned by such movements or positions of the troops as are *bona fide* of a military nature. Effect of certificate.

*Third.*—On a demand being made by virtue of this section to the Collector, he shall inquire into its merits, and, if satisfied that it is just, shall apply to <sup>4</sup> [the Central Government] for permission to pay it; if the Collector thinks the demand is not just, or if <sup>5</sup> [the Central Government] withhold permission to pay it, the complainant may bring the case to decision according to the process of civil law by instituting a suit against <sup>6</sup> [the Central Government]. Suit against Central Government when to be instituted.

## CHAPTERS VIII AND IX.

[*Requisitions for Military aid by Civil Authorities; Spirituous Liquors.*]

44 to 55. *Rep. Act XIII of 1889.*

<sup>1</sup> "District Magistrate" was substituted for "Magistrate" by Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

<sup>2</sup> The word "both" and the words "and the Court of Sudder Foujdary Adawlut" were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>3</sup> The words "Central Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The words "the Central Government" were substituted for the word "Government" by *ibid.*

<sup>5</sup> The words "the Central Government" were substituted for the words "the Collector" by *ibid.*

BOMBAY REGULATION XXV OF 1827.<sup>1</sup>

[1st January 1827.]

Repealed in part, by Act 3 of 1858 ;  
 " " 12 of 1873 ;  
 " " 12 of 1876 ;  
 Amended, by Bom. 3 of 1886 ;  
 Supplemented, by Act 34 of 1850 ;  
 " " 3 of 1858.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

A Regulation for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others for reasons of State.<sup>2</sup>

Preamble.

WHEREAS <sup>3</sup> [reasons connected with the maintenance of public order in a Province,] occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceedings, or when such proceedings may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper ;

and whereas it is fit that, in every case of the nature herein referred to, the measures adopted should emanate immediately from the Governor in Council ;

and whereas <sup>4</sup> [reasons of State] sometimes render it necessary that the estates and lands of zamindars, taluqdars and others <sup>5</sup> \* \* \* \* should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding ;  
 the following rules have therefore been enacted <sup>6</sup> \* \* \* \* .

<sup>1</sup> Bom. Reg. 25 of 1827 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay, except as regards the Scheduled Districts. It has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Scheduled Districts, i.e. the villages belonging to the following Mehwass Chief:—

- |                           |                                 |
|---------------------------|---------------------------------|
| (1) the Parvi of Kathi,   | (4) the Walvi of Gaohalli,      |
| (2) the Parvi of Nal,     | (5) the Wassawa of Chikhli, and |
| (3) the Parvi of Singpur, | (6) the Parvi of Nawalpur,      |

See Appendix *infra*.

<sup>2</sup> For further provisions, see the State Prisoners Acts, 1850 (34 of 1850) and 1858 (3 of 1858).

<sup>3</sup> The words " reasons connected with the maintenance of public order in a Province " were substituted for the words " reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion " by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The words " reasons of State " were substituted for the words " the reasons above declared " by *ibid*.

<sup>5</sup> The words " situated within the zilas subordinate to Bombay " were omitted by *ibid*.

<sup>6</sup> The words " to have effect from such date as shall be prescribed in a Regulation to be hereafter passed for that purpose " were repealed by the Repealing Act, 1873 (12 of 1873).



## CHAPTER I.

RULES FOR THE APPREHENSION AND CONFINEMENT OF INDIVIDUALS  
AS STATE PRISONERS.

1. *First.*—When <sup>1</sup>[reasons connected with the maintenance of public order in the Province] may seem to the <sup>2</sup>[Provincial Government] to require that an individual should be placed under restraint, without any immediate view to ulterior proceedings of a judicial nature, it shall be lawful for the <sup>2</sup>[Provincial Government] *provided always that, with reference to the individual, the measure shall not be in breach of British law*<sup>3</sup>, to cause such individual to be apprehended in such manner as the <sup>2</sup>[Provincial Government] may deem fit, and, when apprehended, to be delivered over to any officer in whose custody it may be deemed expedient that he shall be placed, with a warrant of commitment to such officer's address.

Proceeding for placing persons under restraint as State prisoners.

*Second.*—The warrant of commitment shall be in the form specified in Appendix A, and shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within <sup>4</sup>[the Province].

Form and authority of warrant.

2. The <sup>2</sup>[Provincial Government] shall fix such allowance for the support of the State prisoner as may seem to <sup>5</sup>[it] expedient in reference to the prisoner's habits and rank in society, and shall specify at the same time through whose means it is to be paid and how it is to be applied.

Allowance for support of State prisoner.

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the <sup>2</sup>[Provincial Government] \* \* \* \* \* on the conduct, the health and the comfort of such State prisoner in order that the <sup>2</sup>[Provincial Government] may determine whether the orders for his detention shall continue in force or shall be modified.

Report to Government as to conduct, etc., of prisoner.

4. *First.*—[Powers of Judge of Circuit.] *Rep. Act XII of 1873.*

<sup>1</sup>The words "reasons connected with the maintenance of public order in the Province" were substituted for the words "any of the considerations stated in the preamble of this Regulation" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

<sup>3</sup>So much of s. 1. clause *first*, as provides that, with reference to the individual, the apprehension and confinement therein referred to shall not be in breach of British law, was repealed by the State Prisoners Act, 1858 (3 of 1858), except so far as the said provision applies to European British subjects.

<sup>4</sup>The words "the Province" were substituted for the words "the zilas subordinate to Bombay" by the Adaptation of Indian Laws Order in Council.

<sup>5</sup>The word "it" was substituted for the word "him" by *ibid.*

<sup>6</sup>The words "through the Secretary to Government in the Political Department" were omitted by *ibid.*

Prisoner in custody of officer other than District Magistrate by whom to be visited.

*Second.*—When any State prisoner is placed in the custody of any public officer not being a <sup>1</sup>[District Magistrate] the <sup>2</sup>[Provincial Government] shall instruct either the <sup>1</sup>[District Magistrate,] <sup>3</sup>\* \* \* \* or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Report to Government as to confinement, etc., of prisoner.

5. *First.*—Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the <sup>2</sup>[Provincial Government] whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Representations of prisoner to be submitted.

*Second.*—The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the <sup>2</sup>[Provincial Government].

6. [*Persons already confined as State prisoners.*] *Rep. Act XII of 1876.*

## CHAPTER II.

### RULES FOR THE ATTACHMENT OF LANDS FOR REASONS OF STATE, AND FOR REMOVING SUCH ATTACHMENT.

Attachment of estates by order of Government without decision of Court.

7. Whenever the <sup>2</sup>[Provincial Government] for <sup>4</sup>[reasons of State] shall judge it necessary to attach the estates or land of any zamindar, jagirdar, taluqdar or other person without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential shall be communicated, <sup>5</sup>\* \* \* \* \* to the Judge and the <sup>1</sup>[District Magistrate] or other civil authorities of the district in which the lands estates may be situated <sup>6</sup>\* \* \* \* \*.

<sup>1</sup>"District Magistrate" was substituted for "Magistrate" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

<sup>2</sup>The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup>The words "or the Judge on circuit" were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>4</sup>The words "reasons of State" were substituted for the words "reasons of the nature of those specified in the preamble to this Regulation" by the Adaptation of Indian Laws Order in Council.

<sup>5</sup>The words "under the hand of one of the Secretaries to Government" were omitted by *ibid.*

<sup>6</sup>The words "and to the Sudder Adawlut" were repealed by the Repealing Act 1876 (12 of 1876).

8. *First.*—The lands or estates which may be temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles, if consistent with the rights of others, as had been followed by the proprietor :

Management of attached lands.

Provided, however, that any change may be introduced which the proprietor may desire, and which may not infringe on private rights, nor appear objectionable to the Collector ; and annual accounts of the management of the lands attached shall be furnished to the proprietor.

*Second.*—Such lands or estates, while so under attachment, shall not be liable to be sold by process of law, or otherwise, without the mutual consent of Government and the proprietor ; but the annual income or any portion of it may, if Government shall so direct, be applicable to the satisfaction of decrees of the Civil Court.

Attached lands how saleable in execution. Income applicable to satisfaction of decrees. Rules as to cases where Government order a release from attachment.

9. Whenever the <sup>1</sup>[Provincial Government] shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estates which may have accumulated during the attachment.

### CHAPTER III.<sup>2</sup>

#### EXTENT OF THIS REGULATION.

10. This Regulation extends to the whole of the Provinces of Bombay and Sind as constituted under the Government of India Act, 1935.

Extent.

### APPENDIX A.

TO THE (*here insert the officer's designation*).<sup>3</sup>

WHEREAS the Governor<sup>4</sup> [\* \* \*] for good and sufficient reasons, has resolved that (*here insert the State prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*), you are hereby ordered, in pursuance of that resolution, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor<sup>4</sup> [\* \* \*] and the provisions of Regulation XXX, A.D. 1827.

5 \* \* \*

<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> New Chapter III was inserted by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> As to direction of the warrant, see the State Prisoners Act, 1850 (34 of 1850), s. 1, as applied to Bombay by the State Prisoners Act, 1858 (3 of 1858), s. 3.

<sup>4</sup> The words " in Council " were omitted by the Adaptation of Indian Laws Order in Council.

<sup>5</sup> The words " By order of the Governor in Council etc. " were omitted by *ibid.*

**BOMBAY REGULATION XXIX OF 1827.<sup>1</sup>**

[1st August 1827.]

Repealed in part, by Bom. Reg. 4 of 1828 ;  
 " " " by Act 6 of 1842 ;  
 " " " " 11 of 1846 ;  
 " " " " 4 of 1868 ;  
 " " " " 14 of 1869 ;  
 " " " " 10 of 1876 ;  
 " " " " 12 of 1876 ;  
 " " " " 4 of 1894 ;

Supplemented, by Bom. Reg. I of 1831, as amended by Bom. Reg. 16 of 1831, s. (2) ;

Supplemented, by Act 19 of 1835.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

A Regulation for bringing under the operation of the Regulations the Bombay territories in the Dekkhan and Khândesh.

Preamble.

WHEREAS, subsequently to the conquest by the Company of the territories of the late Peshwa, in the Dekkhan and Khândesh, and the acquisition from other States by treaties and agreements of other territories within the said countries, the governments of all the said territories have, with the view of avoiding the abrupt introduction of extensive change, been conducted under the orders of the Governor in Council, constituting a system which was calculated gradually to prepare the way for the introduction of the general rules of the British administration ;

and whereas the Regulations for the administration of the Bombay territories have in the meantime been revised, and it has now been judged expedient to bring the territories in the Dekkhan and Khândesh under the revised Regulations, being the first <sup>2</sup> twenty-six (26) Regulations of 1827, with certain modifications ;

the following rules have been enacted <sup>3</sup> \* \* \* \*

Regulations made applicable to Dekkhan and Khândesh.

2. *First*.—The first <sup>2</sup> twenty-six (26) Regulations of 1827<sup>4</sup> \* \* \* shall, from the 1st September, 1827, be of force and effect, except as specifically enacted to the contrary, throughout the Bombay territories in the Dekkhan and Khândesh, consisting of the zilas of Puna and Ahmadnagar, as described in Appendix A to this Regulation <sup>5</sup> \* \* \* \* .

<sup>1</sup> As to the application of Bom. Reg. 29 of 1827 to the Southern Marátha Country (Dhárwár District), see Bom. Reg. 7 of 1830 as amended by Act 16 of 1895. As to its application to certain other territory, see Bom. 3 of 1863, s. 4, and Bom. 14 of 1866, s. 3. Cf. s. 4 of the Code of Civil Procedure, 1908 (5 of 1908).

<sup>2</sup> Most of these Regulations have been repealed—see Chronological Tables of the Indian Statutes. The unrepealed portions of the others are printed on the preceding pages.

<sup>3</sup> The words and figures "to have effect from the 1st September, 1827", at the end of the preamble, and the words and figures "it is hereby enacted that, in modification of the rules contained in Reg. II, A.D. 1827, sections XXI and XXXVII, clause first" in s. 3, clause first, were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>4</sup> The words "with the exception of Regulation XVIII and of any enactments relating to stamps" were repealed by the Repealing and Amending Act, 1894 (4 of 1894).

<sup>5</sup> The words and figures "and the said territories are hereby further brought under the operation of the Regulations, according as they may apply, to be passed from and after the first September, 1827, for the government of the territories subordinate to the Presidency of Bombay" were repealed by the Repealing Act, 1876 (12 of 1876).

*Second.*—[Fees] *Rep. Act XII of 1876.*

3. *First.*—With reference to the said zilas, \* \* \* \* \* suits against certain persons of rank, as hereinafter specified, shall not come under the jurisdiction of the Civil Courts. Persons excluded from jurisdiction of Courts.

*Second.*—A <sup>1</sup> list of the said persons of rank will be furnished by <sup>2</sup> [the Provincial Government] to the Judge, who will, on application, communicate the same to any person who, as plaintiff or defendant, may show that his interest requires his being supplied with that information. List to be furnished to Judge.

4. *First.*—An <sup>3</sup> Agent of <sup>2</sup> [the Provincial Government] shall be specially appointed for the purpose of receiving and trying and deciding all complaints of a Civil nature which would, under the ordinary rules, be cognizable by either of the Judges of Puna and Ahmadnagar against any of the persons <sup>4</sup> contemplated in the preceding section: he shall be furnished with a list of the <sup>5</sup> said persons of rank, and with instructions descriptive of the respective rules of procedure to be followed in the case of each such person, and he shall communicate to any individual making application so much of the above-mentioned information as such individual may show to be important to his own interest. Agent to be appointed for trial of suits against them.  
List and instructions to be furnished to him.

*Second.*—The list above-mentioned shall comprise three (3) classes of persons of rank; and the instructions above-mentioned shall provide three (3) several modes of procedure, applicable respectively to each class of the said persons of rank. List and instructions what to comprise and provide.

5. *First.*—Suits against the persons belonging to the first of the classes comprised in the Agent's list, being individuals of the very first distinction and influence under the Peshwa's Government on account of their birth, their political importance, or the religious estimation in which they were held, shall be conducted and decided by the Agent, reference being had in the most ample degree to the privileges of the defendant by former usage and custom enjoyed, and to other peculiar characteristics of the case conformable to like usage and custom; Conduct of suits against first class persons.

and no decree against any such defendant shall be enforced until the suit and all proceedings thereon shall have been referred to Decrees not to be executed without reference to Provincial Government.

<sup>1</sup> As to appeals from decisions passed by jagirdars included in this list, see Bom. Reg. 13 of 1830, s. 3. Provincial Government.

As to Courts having power to take cognizance of land-suits in which persons included in this list are concerned as defendants, see Bom. Reg. 1 of 1831, and Bom. Reg. 16 of 1831.

<sup>2</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> As to transfer of suits to the Assistant Agent, see Act 19 of 1835.

<sup>4</sup> As to land-suits in which such persons are concerned as defendants, see Bom. Reg. 1 of 1831, and Bom. Reg. 16 of 1831, s. 2.

<sup>5</sup> Cf. Section 4 of the Code of Civil Procedure, 1908 (Act 5 of 1908).

28 *Dekkhan and Khandesh (Puna, Ahmadnagar [1827 :BOM. REG. XXIX  
and Khandesh Districts)*

Appeal. the <sup>1</sup>[Provincial Government](to <sup>2</sup>[which] also the plaintiff may appeal),  
<sup>2</sup>[which], as a special superior Court for the adjustment of such suits, will  
pass such order thereon as <sup>3</sup>[it] may deem just and equitable, an appeal  
to the King in Council being open to either party.

Conduct of/  
suit against  
second class  
persons. *Second.*—Suits against the persons belonging to the second of the  
classes comprised in the Agent's list, being individuals not equal in con-  
sideration to those above adverted to, but of high rank and importance  
under the Peshwa's Government, shall be conducted and tried by the  
Agent, reference being had in a great degree, and in conformity to former  
usage and custom, to the rank of the defendant, his situation and  
privileges, under the Peshwa's Government, as affecting his creditor's  
means of compelling payment during that period, his present means of  
discharging the debt, and other points material to the real equity of the  
plaintiff's claim and the defendant's liability.

Appeal to  
Provincial  
Government. An appeal against the Agent's decision to the superior Court of the  
<sup>4</sup>[Provincial Government], as above constituted, shall be open to either  
party :

Limitation. the petition of appeal shall be presented either to the Agent or <sup>5</sup>[to  
the Provincial Government] within ninety (90) days (which period may  
be extended for good reasons) after the Agent's decision was passed :  
the rules for trial and decision of such appeal shall be the same as those  
prescribed for the original trial of the suit and a final appeal to the King  
in Council shall be open to either party.

Conduct of  
suits against  
third class  
persons. *Third.*—Suits against the persons belonging to the third of the classes  
comprised in the Agent's list, being individuals inferior in rank to those  
of the classes previously described, but still equitably entitled, on  
account of the privileges hitherto enjoyed by them, to a certain special  
degree of consideration shall be conducted and tried by the Agent, in like  
conformity to usage and custom, with some relaxation of the rules of the  
general Regulations and some portion of attention to the points above  
specified for regulating his decisions in suits against individuals of the  
two superior classes.

Appeal to  
Sadr Adalat. An appeal to the Sadr Diwani Adalat against the Agent's decision  
shall be open to either party ;

Limitation. the petition of appeal shall be presented, either to the Agent or to the  
Sadr Diwani Adalat, within ninety (90) days (which period may be  
extended for good reasons) after the Agent's decision was passed : the

<sup>1</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaption of Indian Laws Order in Council.

<sup>2</sup> The word "which" was substituted for the words "whom" and "who" by *ibid.*

<sup>3</sup> The word "it" was substituted for the word "he" by *ibid.*

<sup>4</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

<sup>5</sup> The words "to the Provincial Government" were substituted for the words "to Government" by *ibid.*

rules for trial and decision of such appeal shall be the same as those prescribed for the original trial of the suit; with which view the instructions of the Agent, with regard to the defendant, shall be communicated <sup>1</sup>[by the Provincial Government] to the Sadr Diwani Adalat; and a final appeal to the King in Council shall be open to either party

\* \* \*

6. [Certain classes of suits excluded from jurisdiction of Courts.] *Rep. Act X of 1876.*

7. [Pleadings; jurisdiction; appeals; execution of decrees.] *Rep. Act XIV of 1869.*

### APPENDIX A. <sup>3</sup>

(See section 2, clause 1st.)

*Territorial description of the Zilas in the Dekkhan and Khandesh, established under the Presidency of Bombay; formed of conquests from the Peshwa (proclamation of occupation, 11th February, 1818), and cessions from Holkar (treaty 6th January, 1818), Sindia (treaty 6th February, 1820) and the Nizam (treaty 12th December, 1822).*

#### ZILA OF PUNA.

The two (2) tarafs Haveli-Puna and Karyat-Maval.

The fifteen (15) following villages of the taraf Keru Bára, namely :—

1 Sivra,	9 Khetkavla,
2 Kondhanpur,	10 Kumbosi,
3 Kalyan,	11 Gávardari,
4 Rahtavda,	12 Gogalvad,
5 Ombra,	13 Kaumthadi,
6 Arvi,	14 Khed Sivapur,
7 Divra,	15 Kelvad.
8 Kamsa,	

The three (3) following villages of the taraf Musa Khora, namely :—

1 Jamli,	3 Sangrun.
2 Sonapur,	

<sup>1</sup> The words "by the Provincial Government" were substituted for the words "by Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "under the rules contained in the General Regulations with reference to such appeals from the decrees of the Sadr Diwani Adalat" were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>3</sup> So much of Bom. Reg. 29 of 1827 as related to the villages of Jálíhal, Tingni Bidri, Hongalhalli, Kárjol, Upaldinni, Allasunde and Boblad was repealed by Act 6 of 1842.

So much of this Appendix as declared the villages contained in the schedule to Act 11 of 1846 and the lands attached thereto (being parts of the parganas of Nandurbar, Sultanpur and Kukarmunda, in the province of Khandesh), subject to the Regulations established for the administration of civil and criminal justice in the Province of Bombay, was repealed by that Act.

So much of this Regulation as related to the following villages in the Puna District, viz :—

1. The Punt Suchoo's village of Apti, Taraf Hardus-Maval,  
2, 3, 4. The Punt Suchoo's villages of Watar, Bhambourdy and Gunund in that part of the Tarafs of Nir Thadi and Sirval which lies north of the Nira river, was repealed by Act 4 of 1868.

The three (3) following villages of the taraf Muta Khora, namely :—

- |             |  |         |
|-------------|--|---------|
| 1 Ambegaon, |  | 3 Ambi. |
| 2 Bhavli,   |  |         |

The two (2) following villages of the taraf Kánad Khora, namely :—

- |           |  |            |
|-----------|--|------------|
| 1 Vinjer, |  | 2 Antroli. |
|-----------|--|------------|

<sup>1</sup>*The village of Apti, taraf Hardus-Maval.*

The eighteen (18) tarafs Sandas, Patas, Panbal, Mahlunga, Ausiri, Khed, Chakan, Ghoda, Vada, Ambegaon, Junna, Votur, Ala, Bela, Markhoda, Kokatner, Mínnar and Narayangaon.

The ten (10) following villages of the taraf Kurda, namely :—

- |                    |  |                    |
|--------------------|--|--------------------|
| 1 Ambi,            |  | 6 Bhaugri,         |
| 2 Khambori,        |  | 7 Aldara,          |
| 3 Baradi,          |  | 8 Lingdi,          |
| 4 Lavki,           |  | 9 Ghasgaon,        |
| 5 Nandur Kandumal, |  | 10 Pimpalgaon Jog. |

The three (3) tarafs Andar Maval, Nani Maval and Paud Khora.

The thirty-two (32) following villages of the taraf Paun Maval, namely :—

- |                    |  |                 |
|--------------------|--|-----------------|
| 1 Karunj,          |  | 17 Shivner,     |
| 2 Ambegaon,        |  | 18 Bauver,      |
| 3 Pusani,          |  | 19 Thugaon,     |
| 4 Chandkhed,       |  | 20 Pardavdi,    |
| 5 Kila,            |  | 21 Mahagaon,    |
| 6 Shevti,          |  | 22 Kusgaon,     |
| 7 Sindgaon,        |  | 23 Yelsi,       |
| 8 Pavla,           |  | 24 Bebarvohol,  |
| 9 Kurda,           |  | 25 Riha,        |
| 10 Siravli,        |  | 26 Pauchana,    |
| 11 Ghivandi Alvan, |  | 27 Bersi,       |
| 12 Apti,           |  | 28 Badavli,     |
| 13 Kauter Khadak,  |  | 29 Arra,        |
| 14 Malavli,        |  | 30 Ursi,        |
| 15 Shivli,         |  | 31 Gotavra,     |
| 16 Aridiv,         |  | 32 Adala Khurd. |

The three (3) tarafs Kari Pathar, Sasvad and Supa.

<sup>1</sup> See the third footnote on page 29, *supra*.



*So much of the two (2) tarafs Nir Thadi and Sirval as lies north of the Nira river*<sup>1</sup>.

The six (6) tarafs Indapur Baramati, Mohol, Undertappa to the west of the Sina river, Bhusa and Temburni.

The four (4) following villages of the taraf Karkam, namely :—

1 Gursali,	3 Karola,
2 Badalkot,	4 Ujini.

The two (2) following villages of the taraf Kathi, namely :—

1 Sorsti,	2 Shankargaon.
-----------	----------------

The three (3) tarafs Sholapur, Ahirvadi and Mandrup.

The five (5) following villages denominated the Sammot Phutgaon, namely :—

1 Andal,	4 Darphal,
2 Muranchi,	5 Mangrul.
3 Nerkhed,	

The seven (7) tarafs Indi, Tamba, Hippargi, Julvad-Kokatnur, Almel, Bardul and Ukli.

The three (3) following villages of the taraf Haveli Bijapur, namely :—

1 Ukmanhal,	3 Ahleabad.
2 Kaulga,	

The four (4) following villages of the taraf Horti, namely :—

1 Ranjanhal,	3 Tilihal,
2 Minchanhal,	4 Kyatilkir.

The qasba of Sindgi.

The six (6) following villages of the taraf Honvad, namely :—

1 <i>Jalihal</i> , <sup>2</sup>	4 Araballi,
2 Ramtirat,	5 Kaltavteghi,
3 Yetinhal,	6 Ghonasghi.

The seven (7) following villages of the taraf Anti, namely :—

1 Aralhatti,	5 Balgheri,
2 Abihal,	6 Sambarga,
3 Tangarri,	7 Bemanhl.
4 Mangsula,	

The two (2) following villages of taraf Halsanghi, namely :—

1 Bhatgunk,	2 Gotihal.
-------------	------------

<sup>1</sup> As to three of the villages in these tarafs, see the third footnote on p. 29, *supra*.

<sup>2</sup> See the third footnote on p. 29, *supra*.

The six (6) following villages, namely :—

1 Avakor,		4 <i>Tingni Bidri</i> , <sup>1</sup>
2 Hina Parsalghi,		5 <i>Hongalhalli</i> , <sup>1</sup>
3 Surpal,		6 <i>Karjol</i> . <sup>1</sup>

The two (2) tarafs Talikoti and Nalatvad.

The qasba of Bagevadi and the two (2) villages of Masbinal and Yerval.

The four (4) following villages in the taraf Muhammadpur, namely :—

1 Jaynapur,		3 <i>Upaldinni</i> , <sup>1</sup>
2 Budeni,		4 <i>Gurodhal</i> .

The village of Bhaganagar, taraf Sednak.

The seven (7) following villages of the taraf Chimalghi, namely :—

1 Disalkop,		4 Golsinghi,
2 Mijarkop,		5 Gharri,
3 Murkatihal,		6 Liklevadi,

7 Maundghi.

ZILA OF AHMEDNAGAR.

(*Ahmednagar Collectorship.*)

Barsi Panch Mahals.

The Peshwa's share of the pargana Doka.

The village of Vaghola in the Dharur pargana.

So much of the pargana Haveli-Parinda as lies west of the Sina river and the village of Sanori to the east of the said river.

The two (2) parganas of Jamkhed and Vanghi.

The Peshwa's share of Prant Karrevarit and that part of the Nizam's share which lies west of the Sina river.

The Peshwa's share of the Ashti pargana and the taraf Manur.

The two (2) tarafs Naga Haveli and Ranjangaon.

The Pargana Parner.

The nine (9) following villages in taraf Belha, namely :—

1 Davalgaon,	4 Babra,	7 Ukargaon,
2 Orngaon,	5 Kolgaon,	8 Isapur,
3 Karnjavan,	6 Sidori,	9 Andalgaon.

The two (2) parganas of Kharda and Nevasa, except the village of Jalka.

The two (2) tarafs Ganji-Bhoyra and Vavrad.

The pargana Baragaon Nandur.

<sup>1</sup> See the third footnote on p. 29, *supra*.

The Peshwa's share of the two (2) parganas Bijapur and Gandapur, together with the village of Takli.

The pargana Sangamner, together with the three (3) qasbas of Rahata, Puntambo and Whava.

The thirteen (13) parganas Dhandarphal, Kotul, Akola, Sinnar, Kumbhari, Patoda, Nasik, Trimbak, Vaghera, Vani, Dindori, Shevgaon and Chandor.

*(Khandesh Collectorship.)*

The thirteen (13) parganas Laling, Songir, Ner, Amalner, Betavad, Dhangri, Garondol, Jalod, Chandshahar, Bhadgaon, Bhal, Utran and Masva.

The pargana Pachora which belongs to Sindia, but is governed by the British.

The taraf Lohara-Haveli which belongs to Sindia, but is governed by the British.

The taraf Sangvi, in the Lohara pargana.

The five (5) parganas Shendurnit, Chalisgaon, Rajdesh, Mahombarai and Manikpuri.

The eighteen (18) following villages of the Kana Pargana, namely :—

1 Rolter,	10 Kanedi,
2 Rohilla,	11 Jalgaon,
3 Porkri,	12 Jamdi,
4 Malligaon,	13 Tunvana,
5 Champaner,	14 Palasgaon,
6 Hingna,	15 Malpur,
7 Naydongri,	16 Vetapur,
8 Sahkegaon,	17 Makrandarpur,
9 Kadra,	18 Narsinhpur.

The two (2) qasbas of Ranjangaon and Jategaon.

The twenty-four (24) parganas Galna, Chikhalvohol, Tokra, Jhodga, Lohoner, Vakhari, Sandas, Jayteypur, Pissol, Tilvad, Korali, Otur, Pala, Hatgad, Kanasi, Pimpla, Pimpalner, Dhaiva, Varsa, Bhamen, Navapur, <sup>1</sup> *Nandurbar, Sultanpur and Kukarmunda.*

The three (3) qasbas of Pankera, Umarpatta and Chaupala.

The principality of Akrani.

The pargana of Chopda which belongs to Sindia, but is governed by the British.

<sup>1</sup> See the third footnote on p. 29, *supra*.

34 *Dekkhan and Khándesh (Puna, Ahmad-nagar and Khándesh Districts)* [1827 : BOM. REG. XXIX]

*Southern Marátha Country (Dhárwár District)* [1830 : BOM. REG. VII

The two (2) parganas of Thálner and Amba.

The qasba of Sindva.

The pargana of Yával which belongs to Sindia, but is governed by the British.

The two (2) parganas of Adávad and Sávida.

The village of Chángdev.

The pargana of Ráver, including the taraf of Pál.

The four (4) parganas of Nasirabad, Jámner, Bodvad and Bornár.

### BOMBAY REGULATION VII OF 1830. <sup>1</sup>

[17th March 1830.]

Repealed in part, by Act 6 of 1842 ;  
" " " " " 12 of 1873 ;  
" " " " " 10 of 1876 ;  
" " " " " 12 of 1876 ;

Amended by Act 16 of 1895.

Supplemented, by Bom. Reg. 16 of 1831.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

*A Regulation for bringing under the operation of the Regulations the territories comprised in the Southern Marátha Country, belonging to the Honourable Company, and forming the said territories into a zila.*

Preamble.

WHEREAS the administration of the territories of the Southern Marátha Country, acquired by conquest by the Honourable Company from the Peshwa and by treaty and agreement from other States, has been hitherto conducted under the orders of the Honourable the Governor in Council, the Regulations being in force in the said territories as instructions to be acted upon, as far as circumstances, under the recent acquisition, might dictate, and as preparatory to the formal introduction of the Regulations as established laws ;

and whereas the said country and territories having now, by order of the Honourable the Court of Directors, been finally annexed to the Presidency of Bombay, the Honourable the Governor in Council has judged it expedient to form the said territories into a zila, to be denominated the zila of Dhárwár, and to introduce and establish therein the Regulations now in force under the Presidency of Bombay, in the same manner, and upon the same principles, as in the territories of the Dekkhan and Khándesh under the provisions of <sup>2</sup> [3 Regulation XXIX] of 1827 ; the following rules have therefore been enacted <sup>4</sup> \* \* \*

<sup>1</sup> Cf. s. 4 of the Code of Civil Procedure, 1908 (5 of 1908).

<sup>2</sup> Substituted for "Regulations XXIX and XXX" by the Repealing Act, 1895 (16 of 1895).

<sup>3</sup> *Supra*.

<sup>4</sup> The words and figures "to have effect from the 1st of June 1830" were repealed by the Repealing Act, 1876 (12 of 1876).

1. The territories of the Southern Marátha Country, as described in Appendix A to this Regulation, are hereby formed into a zila, to be denominated the zila of Dhárwár. Territories formed into zila.

12. \* \* \* \* 2 The said zila is brought under the operation of the general Regulations now in force under the Bombay Presidency, with the exceptions and according to the rules provided in 3 [4 Regulation XXIX of 1827] for the territories of the Dekkhan and Khándesh, as the same may not have been modified by any subsequent enactment, and with the exception of 5 [section 5]. Brought under operation of Regulations, Exceptions

3, 4. [Combination of certain offices in one person.] *Rep. Act XII of 1873.*

6 5. There shall be a Political Agent in the Southern Marátha Country, on the part of 7 [the Provincial Government], for the trial of suits against persons of rank ; and, in modification of the rules contained in section 3 and the following sections of 4 Regulation XXIX, 1827, it is enacted that 8 suits against such persons of whom a list shall be furnished by 7 [the Provincial Government] to the Agent, shall be tried by him in the same manner and under the same rules as are enacted for the Agent of Sardárs' claims for the Dekkhan. Creation of Political Agent to try suits against persons of rank, under modification of s. 3; Bom. Reg. XXIX, 1827.

#### APPENDIX A. 9

*Territorial description of the zila of the Karnátak or Southern Marátha Country, under the Presidency of Bombay, formed by conquests from the Peshwa (Proclamation of occupation, 11th February, 1818), cession by the Rájá of Kolhápur (Definitive treaty, 15th March, 1829), reversion of jágirs on failure of direct heirs, resumption of a part of the Sāngli jágir in lieu of service, and the transfer of two tálukas from the Puná zila (Order of Government dated 19th November, 1829).*

The thirty-two (32) parganas Dhárwár, Navalgund, Gadag, Bankápur, Shiggaon, Hāngal, Adur, Mishrikot, Old Hubli, New Hubli, Eyarni, Guttul, Kagenellee, Kod, Hirekerur, Chikkerur, Kuppelrur, Tilvalli,

<sup>1</sup> So much of a. 2 as makes s. 6 of Bom. Reg. 29 of 1827 applicable to the territories comprised in the Southern Marátha Country is repealed by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876).

<sup>2</sup> The words " And it is hereby enacted that " were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>3</sup> Substituted for the words and figures " Regulations XXIX of 1827 and XXX of 1827 " by the Repealing Act, 1895 (16 of 1895). For Regulation 29 of 1827, see *supra*.

<sup>4</sup> *Supra*.

<sup>5</sup> Substituted for the words " the following sections " by the Repealing Act, 1895 (16 of 1895).

<sup>6</sup> As to the application of s. 5 in certain other territory, see Bom. 3 of 1863, s. 4, and Bom. 14 of 1866, s. 3.

<sup>7</sup> The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

<sup>8</sup> As to land-suits in which such persons are concerned as defendants, see Bom. Reg. 16 of 1831.

<sup>9</sup> So much of this Regulation as related to the villages of Jálíhál, Tingni, Bidri, Hongalhalli, Karjol, Upaldinni, Allásandeh and Boblad was repealed by Act 6 of 1842,

Khánápur, Murgod, Bágalkot, Rolli, Bilgi, Bádámi, Kerur, Mudkavi, Hungund, Nandvargi, Indi, Támba, Hippargi and Jalvadkokatnur.

Pargana Kardga (with the exception of the villages of Savalgaon, Bálihali, Jogeshvar, Kondur, Voginkeri, Indur, Arshenágeri and Hungund, included in the Sonda Province, under the Madras Presidency; Yáribudihal, belonging to Chintáman Ráo Sáheb SÁNGLIKAR; Yellápur belonging to Mádhav Ráo Sáheb Mirajkar; and Savanur, Hollanhulli, Chillur, Tobada-Hulikatti Gabbur, Mankatti, Jekinkatti, Tcrur, Siddápur, Yekkihkop, Kobbanur, Vaddinakop, Naikerur, Tendur Manur, Niralkatti, Dommar-Mattur, Mulkerri, Mádápur, Basavankop, Chandápur, Kallivál, Nandihalli, Honnikop and Surapakatti, belonging to the Nawáb of Savanur).

Pargana Nirsangi (with the exception of the villages of Váralgi and Vonikerri, included in the Sonda Province, under the Madras Presidency).

Pargana Taras (with the exception of the villages of Bállinhalli and Kalkeri, included in the Sonda Province, under the Madras Presidency).

Pargana Páchhápúr (with the exception of the villages of Bassápur, Haggedáhál, Arlekatti, Serur, Sháhbandar, Islámpur and Ghutguddi, belonging to the Rájá of Kolhápúr; Tummarguddi and Harankolla, belonging to Chintáman Ráo Sáheb SÁNGLIKAR; and Budihál and Malbemardi belonging to Raghunáth Ráo Sáheb Kurundvákdar).

Pargana Ráne Bennur (with the exception of the village of Man-Milár, included in the Bellári District, under the Madras Presidency).

Pargana Rattehalli (with the exception of the village of Ukadgat belonging to the Rájá of Mysore).

Pargana Mausur (with the exception of the villages of Khaváspur and Guladhalli, belonging to the Rájá of Mysore).

Pargana Almella (with the exception of the villages of Haukoánhalli and Murganur, belonging to the Surpur Rájá, Nizám's territories).

Pargana Bardol (with the exception of the village of Umraz, belonging to Govind Ráo Sáheb Patvárdhan).

Pargana Tálíkott (with the exception of the villages of Bhattnur, Taggartaggi, Allápur, Nagavi-Allápur, Nárayápur, Holikeri and Vadgerri, belonging to the Surpur Rájá, Nizám's territories).

Pargana Nálátvád (with the exception of the villages of Madlingadhalli, Kol-gudá and Bassápur, belonging to the Surpur Rájá, Nizám's territories).

The six (6) tarafs Kárkop, Máraadági, Ugargol, Morab, Medlari and Vatnál.

The twenty-two (22) Karyáts, Āminbhávi, Nárender, Devar-Hubli, Takkod Ekkundi, Betigera, Ambadgatti, Sampgaon, Bágevadi, Kádarvalli, Golehalli, Nandgad, Halsangi, Kakkeri, Kárlagi, Lokoli, Manoli, Mazti, Yelli-Manoli, Sadalg, Sindogi and Sattigerri.

Karyát Nesargi (with the exception of the village of Madanbhávi belonging to Siddoji Ráo Náik Nimbálkar, Sár-Lashkar, *alias* Nipánikar).

Karyát Belvádi (with the exception of the village of Doddvá belonging to Chintāman Ráo Sāheb Sānglikar).

Karyát Kabbur (with the exception of the village of Belákod, belonging to Siddoji Ráo Náik Nimbálkar, Sár-Lashkar *alias* Nipánikar).

The five (5) Sammats Tegur, Kalkeri, Kalghatgi, Bommiketti and Tumbs.

The twelve (12) villages under the Fort of Kalánidhigad.

Fort of Hire Gandharvagad and its dependencies.

Fort of Gajendragad and its dependencies.

The five (5) following villages of the pargana Nargund, namely :—

- |                |               |
|----------------|---------------|
| 1. Tadáhál,    | 4. Gulugundi, |
| 2. Karkikatti, | 5. Revadekop. |
| 3. Auchmatti,  |               |

The thirteen (13) following villages of the pargana Govinkop, namely :—

- |                |                    |
|----------------|--------------------|
| 1. Benkankop,  | 8. Gobbargumpi,    |
| 2. Arshingod,  | 9. Bettad Kusogal, |
| 3. Hanchináll, | 10. Harlápur,      |
| 4. Hadgali,    | 11. Govankopp,     |
| 5. Kuralgeri,  | 12. Mallápur,      |
| 6. Khánapur,   | 13. Jávr.          |
| 7. Madgunki,   |                    |

The four (4) following villages of the pargana Ajamnagar, namely :—

- |                   |             |
|-------------------|-------------|
| 1. Qasba Belgaum, | 3. Sindoli, |
| 2. Híndalghi,     | 4. Mannur.  |

The eight (8) following villages of the pargana Sháhápur, namely :—

- |                  |              |
|------------------|--------------|
| 1. Kudchi,       | 5. Muchandi, |
| 2. Kánábergi,    | 6. Yuldail,  |
| 3. Chandanhosur, | 7. Modga,    |
| 4. Dhammi,       | 8. Chandgad. |

The village Chikkvadáváli of the pargana Shírhatti.

The seven (7) following villages of the pargana Lakshmeshvar, namely:—

- |               |                    |
|---------------|--------------------|
| 1. Sankilpur, | 5. Gummágol,       |
| 2. Badni,     | 6. Mallikárjunpur, |
| 3. Vithalpur, | 7. Chákinkeri.     |
| 4. Hamigi,    |                    |

The village of Budihál of the pargana Kundgol.

The village of Algundi of the pargana Máchaknur.

The seven (7) following villages of the pargana Ukli, namely:—

- |                |                 |
|----------------|-----------------|
| 1. Qasba Ukli, | 5. Nandihál,    |
| 2. Mangoli,    | 6. Yembatnahál, |
| 3. Kumatgi,    | 7. Hattarkihál. |
| 4. Bissalhál,  |                 |

The four (4) villages of the pargana Horti, namely:—

- |                |                |
|----------------|----------------|
| 1. Rájanhál,   | 3. Tilihál,    |
| 2. Minchanhál, | 4. Kyátankeri. |

The six (6) following villages of the pargana Honvád, namely:—

- |                                  |                 |
|----------------------------------|-----------------|
| 1. <i>Jálihál</i> , <sup>1</sup> | 4. Aráhali,     |
| 2. Rámthirh,                     | 5. Kalkavteghi, |
| 3. Yetinhál,                     | 6. Ghonasghi.   |

The three (3) following villages of the pargana Bágevádi, namely:—

- |                    |            |
|--------------------|------------|
| 1. Qasba Bagevádi, | 3. Yernál. |
| 2. Mäsbinahál,     |            |

The nine (9) following villages of the pargana Alni, namely:—

- |               |                 |
|---------------|-----------------|
| 1. Aralhatti, | 6. Sambárga,    |
| 2. Abihál,    | 7. Bomanhál,    |
| 3. Tangarri,  | 8. Madbhávi,    |
| 4. Mangsuli,  | 9. Pártanhalli. |
| 5. Balgheri,  |                 |

The village of Bhahtgunki, of the pargana Halsangi.

The village of Avarkod, of the pargana Garrikokatnur.

The village of Parsalghi, of the pargana Bidari.

The two (2) following villages of the pargana Ghot, namely:—

- |           |                                       |
|-----------|---------------------------------------|
| 1. Surpa, | 2. <i>Tingni Bidri</i> . <sup>1</sup> |
|-----------|---------------------------------------|

The two (2) following villages of the pargana Mulvád, namely:—

- |                                      |                                 |
|--------------------------------------|---------------------------------|
| 1. <i>Honganhalli</i> , <sup>1</sup> | 2. <i>Karjol</i> . <sup>1</sup> |
|--------------------------------------|---------------------------------|

<sup>1</sup> See the ninth footnote on p. 35, *supra*.



The seven (7) following villages of the pargana Chimalghi, namely :—

- |                |               |
|----------------|---------------|
| 1. Bisalkop,   | 5. Ghani,     |
| 2. Majrekop,   | 6. Siklevádi, |
| 3. Mukartihál, | 7. Máradghi.  |
| 4. Golsinghi,  |               |

The village of Bhágánagar, of the pargana Sidhánáth.

The three (3) following villages of the pargana Muhammadápur, namely :—

- |              |                                    |
|--------------|------------------------------------|
| 1. Jaynápur, | 3. <i>Upaldinni</i> . <sup>1</sup> |
| 2. Budeni,   |                                    |

The two (2) following villages of the pargana Terdál, namely :—

- |                 |               |
|-----------------|---------------|
| 1. Saptá Ságar, | 2. Khemlápur. |
|-----------------|---------------|

The three (3) following villages of the pargana Mangalvedha, namely :—

- |              |          |
|--------------|----------|
| 1. Kavtholi, | 3. Amba. |
| 2. Donaj.    |          |

The village Kónnur, in the pargana Jamkhandi.

The four (4) following villages of the pargana Vithal Vishráam, namely :—

- |              |               |
|--------------|---------------|
| 1. Rájgoti,  | 3. Supa,      |
| 2. Kundanur, | 4. Turkevádi. |

The six (6) following villages of the pargana Mulgund, namely :—

- |             |                 |
|-------------|-----------------|
| 1. Bandvád, | 4. Bassápur,    |
| 2. Kanávi,  | 5. Sittaulhari, |
| 3. Hossur,  | 6. Seruj.       |

The four (4) following villages of the taraf Kónnur, namely :—

- |               |             |
|---------------|-------------|
| 1. Horekop,   | 3. Hágnur,  |
| 2. Hampiholi, | 4. Belleri. |

The four (4) following villages of the taraf Sánkli, namely :—

- |             |             |
|-------------|-------------|
| 1. Kelila,  | 3. Hollada, |
| 2. Mendila, | 4. Tánáli.  |

The three (3) following villages of the taraf Maneri, namely :—

- |             |          |
|-------------|----------|
| 1. Mirvala, | 3. Vádi. |
| 2. Morula,  |          |

The two (2) following villages of the taraf Harlápur, namely :—

- |              |               |
|--------------|---------------|
| 1. Narsápur, | 2. Vobalápur. |
|--------------|---------------|

The village Rokadkatti of the taraf Bannur.

---

<sup>1</sup> See the ninth footnote on p. 35, *supra*.

The three (3) following villages of the Karyát Asundi, namely :—

- |               |               |
|---------------|---------------|
| 1. Asundi,    | 3. Kurvankop. |
| 2. Karekatti, |               |

The fourteen (14) following villages of the Karyát Huli, namely :—

- |                |                     |
|----------------|---------------------|
| 1. Qasba Huli, | 8. Dáderikop,       |
| 2. Kapli,      | 9. Bingadákatti,    |
| 3. Manikatti,  | 10. Konkankujhatti, |
| 4. Belvanki,   | 11. Tuppadákuratti, |
| 5. Kaujgeri,   | 12. Yámgal,         |
| 6. Rottigávád, | 13. Hulikatti,      |
| 7. Adnur,      | 14. Sortur.         |

The three (3) following villages of the Karyát Ingalhalli, namely :—

- |                |              |
|----------------|--------------|
| 1. Nalvadi,    | 3. Sirguppi. |
| 2. Mulláhalli, |              |

The two (2) following villages of Karyát Hebli, namely :—

- |                 |            |
|-----------------|------------|
| 1. Qasba Hebli, | 2. Sevali. |
|-----------------|------------|

The three (3) following villages of the Karyát Adgal, namely :—

- |               |              |
|---------------|--------------|
| 1. Nappanhál. | 3. Biranhál. |
| 2. Aluknur,   |              |

The twenty (20) following villages of the Karyát Sholápur, namely :—

- |                            |                  |
|----------------------------|------------------|
| 1. Qasba Sholápur,         | 11. Hitni,       |
| 2. Náganur,                | 12. Rásingkhurd, |
| 3. Gudikuppi,              | 13. Hadalga,     |
| 4. Hargápur,               | 14. Bahirápur,   |
| 5. Karajgi,                | 15. Sankeshvar,  |
| 6. Shendur Orásing Bazurg, | 16. Tavdi,       |
| 7. Shenkinhosur,           | 17. Buktialur,   |
| 8. Honnoli,                | 18. Ankla,       |
| 9. Konankeri Pimpalgaon.   | 19. Bákunhál,    |
| 10. Kanagalla,             | 20. Baur.        |

The nine (9) following villages of the Karyát Sávgaoon, namely :—

- |              |                |
|--------------|----------------|
| 1. Benodi,   | 6. Bhátnagnur, |
| 2. Haddaná,  | 7. Audi,       |
| 3. Mattivád, | 8. Savdalga,   |
| 4. Rongnoli, | 9. Hanchinhal. |
| 5. Sulgaon,  |                |

The eighteen (18) following villages of the Karyát Laut, namely :—

1 Chinchni,	10 Budihál,
2 Jettrát,	11 Kođáni,
3 Náhinglej,	12 Kurli,
4 Hunargi,	13 Akkol,
5 Siddandál,	14 Muhammadápur,
6 Yernál,	15 Buddalmukh,
7 Padlehál,	16 Rumtoli,
8 Lakhnápur,	17 Pángra,
9 Gawhán,	18 Girgaon.

The seven (7) following villages of the Karyát Naiz, namely :—

1 Mauza Chikodi,	5 Ammangi,
2 Peth Chikodi,	6 Naiz,
3 Galatga,	7 Kunnúr.
4 Kotheli,	

The thirteen (13) following villages of the Karyát Nesri, namely :—

1 Peth Daddi,	8 Khavnevádi,
2 Auladhál,	9 Shettihalli,
3 Attehál,	10 Bilki,
4 Ránevádi,	11 Sálámvádi,
5 Bedravádi,	12 Kot,
6 Modga,	13 Dhondgatti.
7 Nágánur,	

The village Bágani of the Karyát Dudgaon.

The three (3) following villages of the taraf Haveli Bijápur, namely :—

1 Ukmanhál,	2 Kaulga,	3 Ahleabad.
-------------	-----------	-------------

The twenty-six (26) following villages of the Tappa Chandgad, namely :—

1 Qasba Chandgad,	14 Hambera,
2 Kodoli,	15 Khámdal,
3 Bágálga Dukkarvádi,	16 Paurla,
4 Sipūr,	17 Kokara,
5 Sávarda,	18 Isápur,
6 Gulvada,	19 Konevádi,
7 Vāgothar,	20 Umgaon,
8 Mángaon,	21 Návga,
9 Kolindra,	22 Philni,
10 Adūr,	23 Jāmbēra,
11 Naundarida,	24 Nahareli,
12 Asgaon,	25 Bhogoli,
13 Sula,	26 Kolindra.

The four (4) following villages of the Pránt Ráybág, namely :—

1 Akkevát,		3 Ingli,
2 Naugaz,		4 Ankáli.

The twenty-eight (28) following villages of the Pránt Miraj, namely :—

1 Hattánur	..	Karyát Tásgaon.
2 Kudchi	}	.. Do. Maisal.
3 Chandúr		
4 Qasba Isápur		
5 Chikkalgothan	}	.. Do. Isápur.
6 Nanbalka		
7 Bedaga	}	.. Do. Bedaga.
8 Gundevádi		
9 Gaurvád	}	.. Do. Shirhatti.
10 Aurvád		
11 Tákli	}	.. Do. Sángli.
12 Brahmanál		
13 Padamál		
14 Tung	..	Do. Degraz.
15 Hingangaon	..	Do. Kavta Máhankál.
16 Dhámni	..	Do. Haveli.
17 Vásamba	..	Do. Kavta.
18 Zarandi	..	Do. Anjani.
19 Kaulaga	..	Do. Sávarda.
20 Karoli	..	Do. Design.
21 Shipur	..	Do. Ainápur.
22 Bekiri	}	.. Do. Jugal.
23 Rájápur		
24 Nandikurli		
25 Kerúr		
26 Yedúr		
27 Kalhola		
28 Sháhápur		

The two (2) following villages of the Pránt Kágál, namely :—

1 Mauzari,		2 Allásandéh. <sup>1</sup>
------------	--	----------------------------

<sup>1</sup> See the ninth footnote on p. 35, *supra*.

The thirty-eight (38) following villages, not belonging to any particular pargana or other territorial division, namely :—

1 Saundatti,	20 Alagankop,
2 Koteváda,	21 Bogúr,
3 Hálkusugál,	22 Daustikop,
4 Kalkeri,	23 Hutikottal,
5 Malligvad,	24 Badas,
6 Mugutkhán Hubli,	25 Kukkadolli,
7 Amrápur,	26 Jiknúr,
8 Virápur,	27 Devar Sigehalli,
9 Handur,	28 Ettiagi,
10 Talvárkop,	29 Gandhigvád,
11 Márgankop,	30 Toligi,
12 Kasmalgi,	31 Qasba Hukeri,
13 Ambegápur,	32 Peth Hukeri,
14 Bilámarrí,	33 Chuláki,
15 Hulgínháal,	34 Goravbál,
16 Keárkop,	35 Kaggadhál,
17 Gazpatti,	36 Gorvankolla,
18 Gádikop,	37 Bassedon,
19 Hattiholi Khurd,	38 Sindgi.

**BOMBAY REGULATION XIII OF 1830.<sup>1</sup>**

[31st March 1830]

Repealed in part by Act 12 of 1873 ;

Repealed in part by Act 12 of 1876 ;

Amended by Act 4 of 1894 ;

Adapted and modified by the Adaptation of Indian Laws Order in Council.

*A Regulation for vesting certain jágirdárs, saranjámídárs and inámdárs with the power of deciding suits within the boundaries of their respective estates.*

WHEREAS, in accordance with former custom, and in many instances Preamble. agreeably to original tenure, jágirdárs, saranjámídárs and inámdárs have been permitted to exercise civil jurisdiction within their possessions ;

<sup>1</sup> This Regulation was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay (except as regards the Scheduled Districts i.e., the villages belonging to the following Mehwassi Chiefs :—

- (1) The Párví of Káthí.
- (2) The Párví of Nál.
- (3) The Párví of Singpúr.

- (4) The Walvi of Gaohállí.
- (5) The Wassáwa of Chikhli.
- (6) The Párví of Nawalpúr.

The Regulation has been declared applicable to Agents of foreign Sovereigns and to certain other persons—see Act 15 of 1840.

Every jágirdár and other authority invested with powers under Bom. Reg. 13 of 1830 and Act 15 of 1840 shall, for the purposes of the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879), be deemed to be a Subordinate Judge of such class as the Provincial Government may from time to time direct, see s. 2A of that Act.

Cf. s. 4 of the Code of Civil Procedure, 1908 (Act 5 of 1908).

and whereas it has been considered expedient to continue, by specific enactments, to such persons the power of filing, trying and deciding original suits ;

the following rules have been enacted <sup>1</sup> \* \* \* \*

Power to grant sanads to jágirdárs and others, authorizing them to try suits.

1. *First*.—It shall be competent for the <sup>2</sup>[Provincial Government] to grant sanads to persons of the description stated in the above preamble, whose names and possessions are enumerated in a list furnished by <sup>3</sup>[the Provincial Government], conferring on them authority to try and determine all original suits of whatever amount that may be either filed in their Courts, or may be referred to them by the Agent or Judge.

Sanads to define jurisdiction.

*Second*.—The sanads shall define the territory or jágir over which the jágirdárs' jurisdiction extends, and be drawn out according to the form marked A in the Appendix.

Sanads granted only for life.

*Third*.—Such sanads shall only be granted for life ; and without such sanad no jágirdár, saranjámídár or inámdár shall be considered as having the authority to hear and decide civil actions, unless on arbitration or by consent of the parties.

Provincial Government may withhold or withdraw them.

*Fourth*.—In granting sanads <sup>4</sup>[the Provincial Government] reserves to itself, the right of withholding, and, if issued, of afterwards withdrawing, them, if from any cause such course should be deemed necessary in particular cases.

Persons within jágirdárs' jurisdiction to bring disputes before him.

2. *First*.—All persons residing within the jurisdiction of a jágirdár must bring their civil disputes for adjudication before him, unless where the parties mutually agree to the contrary ; or where one or the other is an European or American, or where, one being the relation or dependent of the jágirdár, the other objects on that ground.

Suits to be sent to Agent or Judge.

*Second*.—Suits thus excepted shall be sent up to the Agent or Judge, who will dispose of them either by trying them or by referring them for trial

1 \* \* \* \*

Decree to be passed by jágirdár.

*Third*.—The jágirdár shall pass a written decree recording the proceeding held, and his judgment on every action or suit tried before him.

Decisions of jágirdárs final.

3. *First*.—Decisions passed by the jágirdárs enumerated in the list furnished by the <sup>3</sup>[Provincial Government] shall, in conformity with their right and authority by tenure, be final.

Appeal from decisions.

*Second*.—The decisions of all other jágirdárs shall be open to appeal according to the rules regarding appeal if in the first and second class of

<sup>1</sup> The words " to have effect from the date of promulgation " in the preamble and the words " to the [Deputy] Agent or Assistant Judge, as the case may be " in s. 2, cl. *second*, were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>2</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words " the Provincial Government " were substituted for the word " Government " by *ibid*.

<sup>4</sup> The words " the Provincial Government " were substituted for the words " the Government " by *ibid*.

sardárs of the list provided for by clause second, section 3, <sup>1</sup> Regulation of other XXIX of 1827 to the Agent for the adjustment of sardárs' claims ; if of jágirdárs. the third class of the said list, to the Judge.

*Third.*—Decisions by these authorities in these appeals shall be open Appeal from to <sup>2</sup>[appeal to] the Sadr Diwáni Adálat, when, if the original judgment is decisions in confirmed, the amount adjudged or at issue is rupees (1,000) one thousand ; appeal. if modified or reversed, the amount at issue is rupees (200) two hundred.

*Fourth.*—Decrees by a Jágirdár shall not be liable to be set aside for Decrees not want of form in the proceedings, but only for matters affecting the liable to be set aside for justice of the decision. want of form.

4. Jágirdárs shall have authority to execute their own decrees, and Execution application for execution of decrees refused by the jágirdár may be of decrees. received by the Agent or Judge 3 \* \* \*

5. A special appeal is open in all cases to the Sadr Diwáni Adálat Special ap- 4 \* \* \* peals.

APPENDIX A.

(See section 1, clause second.)

*Form of Sanad to be granted to a Jágirdár, Saranjámídar, or Inámdár, for deciding suits.*



The Honourable <sup>5</sup>[the Governor] by virtue of the powers vested in him by Regulation XIII of 1830, is pleased hereby to confer on you jágirdár (or as the case may be) power to receive, try and decide all such original suits as may be preferred to you for moveable or immoveable property, of whatever amount, or referred to you by the Agent or Judge, whereof both parties, or the defendant or defendants, in such suits shall be resident within the boundary of your jágir, etc., as hereafter defined ; provided such parties shall not mutually agree to the contrary ; or one or other of them shall not be an European or American ; or, being your own relation or dependent, the adverse party shall not object on that account.

<sup>1</sup> *Supra.*

<sup>2</sup> These words were inserted by the Repealing and Amending Act, 1894 (4 of 1894).

<sup>3</sup> The words "and such order be passed thereon as justice and the Regulations may require" were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>4</sup> The words and figures "under the rules provided in Chapter XXII, Regulation IV of 1827, for the admission of special appeals" were repealed by the Repealing Act, 1873 (12 of 1873).

<sup>5</sup> The words "the Governor" were substituted for the words "the Governor in Council" by the Adaptation of Indian Laws Order in Council.

The boundaries of your jágir, over which your jurisdiction, as above set forth, extends, are hereby defined to be

The within-delegated power is vested in you during the pleasure and subject to the recall of the Honourable <sup>1</sup>[the Governor].

### BOMBAY REGULATION I OF 1831.<sup>2</sup>

[5th January 1831]

Repealed in part, by Act 12 of 1873 ;

Amended by Bom. Reg. 16 of 1831 ;

Amended by Act 13 of 1842 ;

Adapted and modified by the adaptation of Indian Laws Order in Council.

*A Regulation for extending the jurisdiction of the Agent of <sup>3</sup>[the Provincial Government], acting under the provisions of section 4, <sup>4</sup>Regulation XXIX of 1827, over suits in which persons of rank of the privileged classes are concerned, and which are now cognizable by the Collectors of land-revenue.*

Preamble.

WHEREAS it has been deemed expedient to extend the jurisdiction of the Agent of <sup>3</sup>[the Provincial Government] acting under the provisions of section 4, <sup>4</sup>Regulation XXIX of 1827, to suits connected with land, its rent and produce, wherein persons of rank of the privileged classes established by that Regulation are concerned ; the following rules have accordingly been enacted

5 \* \* \* \*

Suits connected with land, rent and produce, which are cognizable by Agent.

1. 5 \* \* \* \* Suits connected with land, its rent and produce wherein persons of rank of the privileged classes established by <sup>4</sup>Regulation XXIX of 1827 are <sup>6</sup>concerned, <sup>5</sup>\* \* \* \* shall hereafter be cognizable only <sup>7</sup>by the Agent of <sup>3</sup>[the Provincial Government] acting under the powers vested in him by section 4, <sup>4</sup>Regulation XXIX of 1827, and under the same rules as are prescribed for his guidance in other cases.

*Second.—[Pending suits.] Rep. Act XII of 1873.*

<sup>1</sup> The words "the Governor" were substituted for the words "the Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> As to the application of this Regulation in certain territory, see Bom. 3 of 1863, section 4, and Bom. 14 of 1866, section 3.

<sup>3</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> *Supra.*

<sup>5</sup> The words "to have effect from the date of promulgation" in the preamble, the words "First, it is hereby declared that" and the words and figures "and which under the provisions of section XXXI of Regulation XVII of 1827 are within the jurisdiction of Collectors of land-revenue" in section 1, cl. first, were respectively repealed by the Repealing Act, 1873 (12 of 1873).

<sup>6</sup> As to defendants—see Bom. Reg. 16 of 1831, section 2.

<sup>7</sup> Also by the Political Agent in the Southern Marátha Country—see Bom. Reg. 16 of 1831, section 1. Also by the Collector and his Assistants—see Act 13 of 1842, section 6, which, however, is repealed by the Bombay Land Revenue Code, 1879 (Bom. 5 of 1879) wherever that Code is in force.



BOMBAY REGULATION XVI OF 1831.<sup>1</sup>

[14th September 1831]

Repealed in part by Act 12 of 1873 ;

Adapted and modified by the adaptation of Indian Laws Order in Council.

*A Regulation for extending the jurisdiction vested in the Political Agent in the Southern Marátha Country, under the provisions of section 5, <sup>2</sup>Regulation VII, A. D. 1830, to the cognizance of civil suits of the nature specified in <sup>2</sup>Regulation I, A. D. 1831, and also for the better defining the extent of jurisdiction therein conferred with respect to persons of the privileged classes.*

WHEREAS it has been deemed expedient to extend to the Political Agent in the Southern Marátha Country, as Agent of <sup>3</sup>[the Provincial Government], the cognizance of suits of the nature specified in <sup>2</sup>Regulation I, A. D. 1831, and to define more expressly the extent to which such suits shall be cognizable before the Agent of <sup>3</sup>[the Provincial Government], the following rules have therefore been enacted \* \* \* \* \*

1. \* \* \* \* \* Suits of the nature specified in clause first, section 1, <sup>2</sup>Regulation I, A. D. 1831, shall also be cognizable before the Political Agent in the Southern Marátha Country, as Agent of <sup>3</sup>[the Provincial Government] and shall be tried by him in the same manner, and under the same rules, as are prescribed for his guidance in section 5, <sup>2</sup>Regulation VII, A. D. 1830.

2. And it is further explained with reference to clause first, section 1, <sup>2</sup>Regulation I, A. D. 1831, that such suits shall be cognizable before the Agents of <sup>3</sup>[the Provincial Government] only when the persons of the rank of the privileged classes shall in the original suit stand in the relation of defendants.

<sup>1</sup> As to the application of this Regulation in certain territory, see Bom. 3 of 1863, section 4, and Bom. 14 of 1866, section 3.

*Cf.* s. 4 of the Code of Civil Procedure, 1908 (Act 5 of 1908).

<sup>2</sup> *Supra*.

<sup>3</sup> The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The words "to have effect from the date of promulgation" in the preamble and the words "It is hereby enacted that" in section 1, were repealed by the Repealing Act, 1873 (12 of 1873).

## PART II.

### LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BOMBAY.

#### ACT No. XIX OF 1835.<sup>1</sup>

[THE DEKKHAN ASSISTANT AGENT'S APPOINTMENT ACT, 1835.]

[9th November 1835.]

Repealed in part and amended by Act 12 of 1891.

Adapted and modified by the adaptation of Indian Laws Order in Council,

BE it enacted, that it shall be competent for the <sup>2</sup>[Provincial Govern- Appointment  
ment] of Bombay to appoint the Assistant Judge of the Zila Court of and powers  
Puna to be Assistant to the Agent<sup>3</sup> for Sardárs in the Dekkhan ; of Assistant  
to Agent for  
Sardars in  
Dekkhan.

and it shall be competent to the Agent for Sardárs to refer to his Assistant original suits against Sardárs for amounts not exceeding five thousand rupees \* \* \* \* \* ;

and every decree of the Assistant shall be open to an appeal to the Agent within (30) thirty days from the date of the decree ; and every decision of the Agent on such appeal shall be open to a special appeal<sup>4</sup> \* \* \* \* \* to the <sup>2</sup>[Provincial Government], or to the Sadr Adálat, according as the rank of the Sardár may subject him to the jurisdiction of either authority : Provided that such last-mentioned appeal shall be brought within (90) ninety days after the date of the decree of the Agent.

<sup>5</sup>[2. The provisions of the <sup>6</sup>Code of Civil Procedure relating to appeals Procedure in  
to a High Court from decrees passed in appeal shall apply, so far as may appeal to  
be, to appeals to the <sup>2</sup>[Provincial Government] under this Act.] Provincial  
Government.

<sup>1</sup> Cf. s. 4 of the Code of Civil Procedure, 1908 (Act 5 of 1908).

The short title was given by Bom. 2 of 1921.

<sup>2</sup> The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> As to the Agent, see Bom. Reg. 29 of 1827, s. 4, clause first.

<sup>4</sup> The words " and in the trial of such suits the Assistant shall follow the same rules which are now applicable to the Agent " and the words and figures " under the provisions of Chapter XXII, Regulation IV of 1827 of the Bombay Code " were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>5</sup> S. 2 was added by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>6</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

## THE BOMBAY COURTS OF ADALAT ACT, 1838.

## CONTENTS.

## Sections.

1. Suit to be brought in Civil and not Revenue Courts.
2. Procedure on suits being presented to superior Court doubting its jurisdiction.
3. And in Subordinate Court so doubting.
4. Transfer of suit entered in Court not having jurisdiction.
5. Procedure on Court of Appeal finding original suit was decided in wrong Court.
6. Repealed.

ACT No. XVI OF 1838.<sup>1</sup>

[THE BOMBAY COURTS OF ADALAT ACT, 1838.]

[23rd July 1838.]

Repealed in part, by Act 14 of 1870;  
 Repealed in part, by Act 16 of 1874;  
 Repealed in part, by Act 10 of 1876;  
 Repealed in part, by Bom. 2 of 1866.  
 Repealed in part, by Bom. 3 of 1876.

1. *First.* \* \* \* \* \* In the territories subject to the Presidency of Bombay, all suits in regard to tenures, and the nature and extent of the interest and advantage which in virtue thereof should be enjoyed by the parties concerned, and all suits in which the right to possession of land \* \* \* \* \* is claimed, shall be brought in the Courts of Adalat and the Courts subordinate thereto, and not in the Courts of revenue.

Suit to be brought in Civil and not Revenue Courts.

*Second.*—[Summary jurisdiction of Revenue Courts in giving possession.] Rep. Bom. III of 1876.

*Third.*—[Saving of certain jurisdiction of Revenue Courts.] Rep. Bom. II of 1866.

2. \* \* \* \* \* If a suit be presented in the Court of a Judge or Collector, which such Judge or Collector shall not deem within his jurisdiction, the party presenting such suit shall be referred by the Court in which it may be first presented to that in which, in the opinion of such Court, the jurisdiction lies, and the latter Court shall, in the event of its doubting its jurisdiction in the case, refer the question of jurisdiction to the Sadr Diwani Adalat, whose decision on the point shall be final.

Procedure on suits being presented to superior Court doubting its jurisdiction :

3. \* \* \* \* \* If a suit be presented in any Court subordinate to the Court of a Judge or Collector, which suit such subordinate Court shall not deem to be within its jurisdiction, such subordinate Court shall submit the case to the Judge's or Collector's Court to which such subordinate Court is subordinate; and, if the superior Court to which

and in subordinate Court so doubting.

<sup>1</sup> This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay (except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwasai Chiefs :—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walvi of Gaohalli.  |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.  |

The short title was given by Bom. 2 of 1921.

<sup>2</sup> The words and figures "It is hereby enacted, in modification of the rules contained in Chapter VIII, Regulation XVII of 1827 of the Bombay Code, that" were repealed by the Repealing Act, 1870 (14 of 1870).

<sup>3</sup> The words "or of the wutuns of hereditary district or village officers" were repealed by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876).

the case is so submitted shall be of opinion that such subordinate Court has jurisdiction in the case, such superior Court shall direct such subordinate Court to proceed with the case ; and, if such superior Court shall be of opinion that such subordinate Court has not jurisdiction in the case, such superior Court shall proceed in the manner directed in the last preceding section.

Transfer of suit entered in Court not having jurisdiction.

4. \* \* \* \* \* Whenever a Court of Adalat or a Revenue Court shall have entered on its file, under this Act, a suit in which it has not jurisdiction, it shall be competent to the Sadr Diwani Adalat, either on a reference from the Judge or Collector (as the case may be), or on application from the parties, to direct that the suit be transferred, with all the proceedings which may have taken place therein up to the period of transfer, to the Court possessing jurisdiction, which shall proceed therewith as if the suit had been originally filed in that Court.

Procedure on Court of Appeal finding original suit was decided in wrong Court.

5. \* \* \* \* \* When any Court trying an appeal finds that the action was originally brought and decided in a Revenue Court, when it ought to have been brought and decided in a Court of Adalat, or a Court subordinate thereto, or that the action was originally brought and decided in a Court of Adalat, or a Court subordinate thereto, when it ought to have been brought and decided in a Revenue Court, the Court trying the appeal shall, instead of quashing the whole proceedings, annul only the decree and refer the suit to be tried in the Court to which the jurisdiction properly belongs \* \* \* \* \* ; and the Court trying any such case referred under the foregoing section shall take further pleadings, exhibits and evidence only if it deem such necessary, and shall pass a new decree \* \* \* \* \* .

6. [Pending suits and appeals.] *Rep. Act XVI of 1874.*

<sup>1</sup> The words " And it is hereby enacted, that " were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> The words " without further costs of stamps to the parties, except on new exhibits, if any such should be allowed to be filed ", and the words " but if an appeal be made from such new decree by the party originally bringing the appeal, then the decree of the Court trying such new appeal shall be passed without the cost of a new stamp on the petition of appeal to that party " were repealed by the Repealing Act, 1870 (14 of 1870).

**THE BOMBAY COASTING-VESSELS ACT, 1838.**

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CONTENTS.

SECTIONS.

1. Repealed.
2. Rules as to coasting and other vessels belonging to Queen's subjects.
3. Marking or branding vessels with name of place and number.  
Owner to paint name and number.
4. Registry of name, number and burthen.  
Registry by whom to be made.  
Fresh registration.
5. Owners to apply for registry.  
Information of registry at subordinate port.
6. Officers to perform duty of marking and branding.
7. Owner to obtain certificate of registry.  
Replacing lost certificate.
8. Sealing certificate.
9. Repealed.
10. Fees for certificates.
11. Fees to be credited to Central Government.
12. Production of certificate on demand.
13. Penalty for neglect to comply with rules.  
Recovery of penalties.  
Penalty on repetition of default.
14. Power to direct compensation for trouble in seizing.
15. Repealed.

## SCHEDULE.

ACT No. XIX OF 1838.<sup>1</sup>

[THE BOMBAY COASTING-VESSELS ACT, 1838.]

[27th August 1838.]

Repealed in part, by Acts 14 of 1870 ; 16 of 1874 ; 12 of 1876.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

1. [Repeal of enactments.] *Rep. Act XIV of 1870.*

2. \* \* \* \* \* The following rules shall be in force with respect to vessels belonging to any of Her Majesty's subjects residing within the Presidency of Bombay, and employed on the coasts of the territories subject to the Government of Bombay, or in trading coast-wise, as also with respect to fishing-vessels and harbour-craft belonging to any of the same Her Majesty's subjects.

Rules as to coasting and other vessels belonging to Queen's subjects.

3. \* \* \* \* \* Every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall be marked or branded with the name of the place to which she belongs, and also with a number assigned for the same by the officer authorised to make such registry as is hereinafter mentioned ;

Marking or branding vessels with name of place and number.

and the owner or owners of such vessel employed as aforesaid, fishing-vessel and harbour-craft shall cause such name and number to be painted in black paint upon a white ground on each quarter of such vessel employed as aforesaid, fishing-vessel and harbour-craft, in English figures and letters, each figure and letter being six inches in length.

Owner to paint name and number.

<sup>1</sup> This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, to be in force in the whole of the Province of Bombay [except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwasai Chiefs :—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walvi of Gaohalli.  |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.] |

The short title was given by Bom. 2 of 1921.

<sup>2</sup> The words and figures " And it is hereby enacted, that from the said first day of November, 1838 " and the words " And it is hereby enacted, that " were repealed by the Repealing Act, 1874 (16 of 1874).

Registry of name, number and burthen. 4. 1 \* \* \* \* \* The name and number of every such vessel employed as aforesaid, fishing-vessel and harbour-craft, and her burthen, and also the name or names of the owner or owners thereof, shall be registered in a book to be kept for that purpose by the person hereinafter directed to make such registry.

Registry by whom to be made. At Bombay such registry shall be made by the Master-Attendant, and at other places within the said territories by the Collector of Sea-Customs at such places respectively, or by such other person as shall be appointed by the <sup>2</sup>[Central Government] to act at such places respectively, in the execution of this Act; and whenever any change shall take place in the burthen of such vessel employed as aforesaid, fishing-vessel or harbour-craft, or in the name or names of the owner or owners thereof, such registry shall be made again :

Fresh registration.

Provided, however, that it shall not be lawful to give any name to such vessel employed as aforesaid, fishing-vessel or harbour-craft, other than that by which she was first registered.

Owners to apply for registry. 5. 1 \* \* \* \* \* The owner or owners of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall apply to the person authorized to make such registry in respect of the same, in order to have such registry as aforesaid made, or in order to have such registry made again as aforesaid.

Information of registry at subordinate port. And whenever such vessel employed as aforesaid, fishing-vessel or harbour-craft is registered at a subordinate port, information thereof, and of the number there assigned to her, shall immediately be given by the registering officer to the Master-Attendant at Bombay.

Officers to perform duty of marking and branding. 6. 1 \* \* \* \* \* The duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing-vessels and harbour-craft, at Bombay, shall be performed by the Master-Attendant; and at all other places within the territories subject to the Government of Bombay, the duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing-vessels and harbour-craft shall be performed by the Collector of Sea-Customs at such places respectively, or by such other persons as shall be appointed by the <sup>2</sup>[Central Government] to act at such places respectively, in the execution of this Act.

Owner to obtain certificate of registry. 7. 1 \* \* \* \* \* The owner or owners of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall apply for and obtain a certificate of registry from the person authorised to make such registry as aforesaid, and such certificate shall be in the form

<sup>1</sup> The words "And it is hereby enacted, that" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> The words "Central Government" were substituted for the words "Government of Bombay" by the Adaptation of Indian Laws Order in Council.



specified in the Schedule appended to this Act; and in the case of any Replacing certificate being lost or destroyed, a renewed certificate may be obtained lost certificate. in the same manner and on payment of the fees hereinafter mentioned.

8. 1\* \* \* \* \* Such certificate of registry shall be sealed with the seal of the East India Company, and shall be signed by the person authorised to make such registry. Sealing certificate.

9. [Dates for commencement of certificate and registration.] Rep. Act XII of 1876.

10. 1\* \* \* \* \* The owner or owners of such vessels employed as aforesaid (fishing-vessels and harbour-craft being excepted), on being registered as aforesaid, shall pay— Fees for certificates.

for each certificate of registry for a vessel not exceeding 20 Bombay khandis burthen, the fee of .. 1 rupee.

for each certificate for a vessel exceeding 20 such khandis burthen, and not exceeding 100 khandis burthen .. .. 5 rupees.

for each certificate for a vessel exceeding 100 such khandis burthen and not exceeding 400 khandis burthen .. .. 7 rupees.

and for each certificate for a vessel of 100 tons or greater burthen, per ton .. .. 2 annas.

11. 1\* \* \* \* \* The person or persons so authorized to make such registry as aforesaid shall receive the fees payable for the same, and shall pay such fees to such officer as [the Central Government] shall appoint; the same to be carried to the credit of [the Central Government]. Fees to be credited to Central Government.

<sup>4</sup> Provided that any such fees as immediately before the commencement of Part III of the Government of India Act, 1935, were under this Act as then in force to be carried to the credit of the local Government shall be paid to such officer as the Provincial Government may appoint and be carried to the credit of that Government.

12. 1\* \* \* \* \* The owner or owners or commander of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall produce, on demand thereof, by any officer of the Customs within the said territories, or by any officer of the <sup>5</sup>\* Navy, the certificate so directed to be applied for and obtained, in respect of such vessel employed as aforesaid fishing-vessel or harbour-craft, as abovementioned. Production of certificate on demand.

<sup>1</sup> The words " And it is hereby enacted, that " were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> The words " the Central Government " were substituted for the words " the Governor of Bombay in Council " by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words " the Central Government " were substituted for the words " the Government of Bombay " by *ibid*.

<sup>4</sup> This proviso was inserted by *ibid*.

<sup>5</sup> The word " Indian " was repealed by the Repealing Act, 1876 (12 of 1876).

Penalty for neglect to comply with rules.

13. 1 \* \* \* \* \* In case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so marked or branded in all respects as hereinbefore directed, or in case the name and number of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so painted, or shall not continue so painted on such vessel employed as aforesaid, fishing-vessel or harbour-craft, in all respects as hereinbefore directed ;

or in case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be furnished with such certificate as hereinbefore specified, or in case the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not produce such certificate on demand thereof as hereinbefore directed ;

the owner or owners of every such vessel employed as aforesaid shall be subject to a fine of ten times the amount of the fees payable in respect of the certificate of registry of such vessel, the same being a vessel for the certificate of the registration of which any fee is payable ; and the owner or owners of any such fishing-vessel or harbour-craft shall be subject to a fine of ten rupees ;

Recovery of penalties.

which fines may be recovered on conviction before any Magistrate 2 \* \* \* \* \* having jurisdiction within the said territories, by sale of such vessel, fishing-vessel or harbour-craft, her furniture, ammunition, tackle and apparel ;

Penalty on repetition of default.

and such fines shall be payable as often as the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall make such default as aforesaid : Provided every such subsequent default be made after the expiration of one month from the date of the last conviction.

Power to direct compensation for trouble in seizing.

14. 1 \* \* \* \* \* The <sup>3</sup> [Central Government] may direct compensation for trouble and diligence in seizing such vessel employed as aforesaid, fishing-vessel or harbour-craft, guns, furniture, tackle, ammunition and apparel, as last mentioned, to be made, out of the proceeds of such seizure to the person or persons who shall have seized the same, to such amount, in such manner and in such shares or proportions, as to the said <sup>3</sup> [Central Government] shall seem meet.

15. [Port-clearance.] *Rep. Act XII of 1876.*

<sup>1</sup> The words " And it is hereby enacted, that " were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> The words " Justice of the Peace, or person exercising the powers of a Magistrate " were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>3</sup> The words " Central Government " were substituted for the words " Governor of Bombay in Council " and " Governor in Council " by the Adaptation of Indian Laws Order in Council.

SCHEDULE.<sup>1</sup>

This is to certify that (*here insert the names, occupation and residence of the owners*) having declared that (*he or they*) are sole owner or owners of the vessel (*fishing-vessel or harbour-craft*) called (*the name*) which is of the burthen of (*number of Bombay khandis*) and that the said vessel (*fishing-vessel or harbour-craft*) was (*where and when built*), the said vessel (*fishing-vessel or harbour-craft*) has been duly registered at the port of (*name of port.*)

Certified under my hand.

(*Signature of Officer.*)

**THE BOMBAY HAQQA PROHIBITION ACT, 1839.**

CONTENTS.

SECTIONS.

1. Power to prohibit levy of haqqs, fees and customs.
2. Past and future prohibitions not to be questioned by any Court.
3. Penalty for levy after prohibition.
4. Interpretation.

ACT No. XX OF 1839.<sup>1</sup>

[THE BOMBAY HAQQA PROHIBITION ACT, 1839.]

[29th July 1839.]

Repealed in part, by Act 16 of 1874 ;

Amended, by Act 4 of 1894.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

1. \* \* \* \* \* It shall be lawful for the <sup>3</sup> [appropriate Govern- Power to prohibit levy of haqqs, fees and customs. ment] to issue orders prohibiting the levy of haqqs and fees of every description, and customs, whether by land or sea, enjoyed by holders of rent-free lands or other persons, and of alienated shares of any item of revenue after the abolition or relinquishment thereof by Government.

2. \* \* \* \* \* The legality of any orders which may have been heretofore issued, or of any orders which, conformably with this Act, here- Past and future prohibitions not to be questioned by any Court. after shall be issued, by the <sup>3</sup> [appropriate Government], for prohibiting the levy of any such haqqs, or fees, customs or alienated shares of any such item of revenue as aforesaid, shall not be questioned in any Court of law.

3. \* \* \* \* \* Whoever shall levy any such haqq, fee, custom; Penalty for levy after prohibition. or item of revenue after any such order prohibiting the same as aforesaid shall have been published in the <sup>4</sup>[Official Gazette], and by notice fixed at the post or place at which it has heretofore been claimed or collected or called <sup>5</sup>[shall, whether he is or is not a Revenue-officer <sup>6</sup>[of the Crown], be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine not exceeding ten times the amount of the sum so levied].

<sup>7</sup>4. In this Act, "the appropriate Government" means the Central Interpretation. Government or the Provincial Government according as the matter in question falls within List I, or Lists II and III, in the Seventh Schedule to the Government of India Act, 1935.

<sup>1</sup> This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 5, to be in force in the whole of the Province of Bombay (except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwasai Chiefs :—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walwi of Gaohalli.  |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.  |

The short title was given by Bom. 2 of 1921.

<sup>2</sup> The words "It is hereby declared and enacted, that" in section 1 and the words "and it is hereby enacted, that" in sections 2 and 3 were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>3</sup> The words "appropriate Government" were substituted for the words "Governor in Council of Bombay" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The words "Official Gazette" were substituted for the words "Government Gazette of the Presidency of Bombay" by the Adaptation of Indian Laws Order in Council.

<sup>5</sup> This clause was substituted for the words and figures "shall be punishable as for an undue exaction under Regulation XVII of 1827, section XVI, of the Bombay Code, notwithstanding the offender be not a Revenue-officer of Government" by the Amending Act, 1894 (4 of 1894).

<sup>6</sup> The words "of the Crown" were substituted for the words "of Government" by the Adaptation of Indian Laws Order in Council.

<sup>7</sup> Section 4 was inserted by *ibid.*

ACT No. XV OF 1840.<sup>1</sup>

[THE BOMBAY REGULATION XIII OF 1830 (APPLICATION)  
ACT, 1840.]

[29th June, 1840.]

Repealed in part, by Act 16 of 1874.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Extension of  
Bom. Reg.  
XIII of 1830  
to Agents of  
foreign Sov-  
ereigns and  
others.

*An Act for extending Regulations XV of 1827<sup>2</sup> and XIII of 1830<sup>3</sup> of the Bombay Code to the Agents of foreign Sovereigns.*

It is hereby enacted that the provisions of Regulations XV of 1827<sup>2</sup> and XIII of 1830<sup>3</sup> of the Bombay Code be made applicable to the Agents of foreign Sovereigns having lands and possessions in the British territory of the Bombay Presidency, and to guardians and such other individuals as the <sup>4</sup>[Provincial Government] may consider it expedient to invest with the powers contained in the aforesaid Regulations: Provided that in all cases the authority conferred shall be revocable at the discretion of the <sup>4</sup>[Provincial Government].

<sup>1</sup> This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 5, to be in force in the whole of the Province of Bombay (except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwassi Chiefs:—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walwi of Gaohalli.  |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.) |

The short title was given by Bom. 2 of 1921.

Every jāgirdār and other authority invested with powers under Bom. Reg. 13 of 1830 and Act 15 of 1840 shall, for the purposes of the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879) be deemed to be a Subordinate Judge of such class as the Provincial Government may from time to time direct—see Act 17 of 1879, section 2A.

*Cf.* section 4 of the Code of Civil Procedure, 1908 (Act 5 of 1908).

<sup>2</sup> Act 15 of 1840, so far as it relates to Bom. Reg. 15 of 1827, was repealed by the Repealing Act, 1874 (16 of 1874).

<sup>3</sup> *Supra.*

<sup>4</sup> The words "Provincial Government" were substituted for the words "Governor in Council of Bombay" by the Adaptation of Indian Laws Order in Council.

ACT No. XIX OF 1844.<sup>1</sup>

[THE BOMBAY TOWN-DUTIES ABOLITION ACT, 1844.]

[14th September, 1844.]

*An Act for abolishing town-duties and mukáts, and all taxes upon trades and professions, within the Presidency of Bombay.*

It is hereby enacted that, from the first day of October, 1844, all town duties, kasab veras, muhtarafas, baluteh taxes and cesses of every kind on trades or professions under whatsoever name levied within the Presidency of Bombay and not forming a part of the land-revenue, shall be abolished.

Abolition of  
town-duties  
and taxes.

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<sup>1</sup> This Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 5, General Acts, to be in force in the whole of the Province of Bombay (except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwasai Chiefs :—

- |                           |                             |
|---------------------------|-----------------------------|
| (1) The Parvi of Kathi.   | (4) The Walvi of Ga. halli. |
| (2) The Parvi of Nal.     | (5) The Wassawa of Chikhli. |
| (3) The Parvi of Singpur. | (6) The Parvi of Nawalpur.) |

The short title was given by Bom. 2 of 1921.

**[THE BOMBAY RENT-FREE ESTATES ACT, 1852.]**

## CONTENTS.

## PREAMBLE.

## SECTIONS.

1. Repealed.
2. Power to appoint Inam Commissioner, with Assistants and establishments.
3. Duties how discharged.
4. Determination of titles of claimants to exemption.
5. Powers to enforce attendance of witnesses to take evidence, etc.  
Complaints against, or appeals from, proceedings of Commissioner and Assistants.
6. Punishment of misconduct of officers on Commission.  
Extortion defined.  
Other prosecution not barred.
7. Repealed.

## SCHEDULE A.

*Rules for defining the Duties of each Inam Commissioner and his Assistants.*

## RULES.

1. Duty defined.
2. Appeal from orders of Assistant Commissioners and Commissioner.
3. Duty to receive statements of title and record evidence in support.
4. Statements how received.
5. Notice when to issue.  
Contents of notice.
6. Service of notice.
7. Posting notice when land-holder not found.
8. Attachment by whom enforced.
9. Procedure on receipt of statements and evidence of title.
10. Procedure on failure of notice to procure attendance.
11. Removal of attachment.  
Restoration to proprietors of rents collected.
12. Copies of decisions to be delivered to claimants.  
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13. Execution of decision.
14. Procedure in appeal.  
Setting aside decrees.



## SCHEDULE B.

*Rules for the Adjudication of titles to Estates claimed as Inam or exempt from payment of Land-revenue.*

## RULES.

1. Continuance of inams already declared permanent.  
Disposal of question as to competency to make declaration.
2. Continuance of holding under sanad declaring it hereditary, where granted by competent authority, and conditions of tenure legally observable ; and grant not revoked, disallowed or altered.
3. Continuance of holdings exempt or partially exempt for sixty years before British rule.
4. Continuance of holdings so exempt for forty years.  
Authorised possession how proved.  
Prescriptive right of claimant when admissible.  
Introduction of British Government when to date—  
in territories late of Peshwa,  
in independent principality or jagir more ancient than Peshwa's government.  
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6. Land resumable on demise of incumbent.  
Extension of life tenure of holding of which incumbent died before British rule.  
Resumption of land held by fraud.
7. Continuance of holdings for support of mosques, temples, etc.  
Corresponding provisions of rule 2 applied.  
Effect of enjoyment for forty years where no proof of grant forthcoming.  
Prescriptive title when admissible where records do not go back enough to test enjoyment for forty years.  
Rule where not applicable.  
Adjudication of certain claims coming under rule.
8. Continuance of holdings by official tenure meant to be hereditary.  
Corresponding provision of rule 2 applied.  
Continuance of inam enjoyed as official holding during period covered by evidence though grant or recognition not proved.  
Exemption from rule of emoluments for certain services to State.  
Length of enjoyment by itself does not entitle to benefit of rule.  
Benefit of preceding rules when allowable.
9. Provision for widows of last incumbents of resumed holdings.  
Continuance to widow and sole heir of holder of hereditary personal inam.
10. Exception of certain tenures from application of rules.
11. Modification in favour of claimants and interpretation of rules.

ACT No. XI OF 1852.<sup>1</sup>

[THE BOMBAY RENT-FREE ESTATES ACT, 1852.]

[13th February, 1852.]

Repealed in part by Act 16 of 1875 ;  
 " " " " Act 10 of 1876 ;  
 " " " " Act 4 of 1894.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

*An Act for the Adjudication of Titles to Certain Estates claimed to be wholly or partially Rent-free in the Presidency of Bombay.*

WHEREAS in the territories of the Dekkhan, Khándesh and Southern Preamble.  
 Marátha Country, and in other districts more recently annexed to the  
 Bombay Presidency, claims against Government on account of ináms and  
 other estates wholly or partially exempt from payment of land-revenue  
 are excepted from the cognizance of the ordinary Civil Courts \* \* \* ;

and whereas it is desirable that the said claims should be tried and  
 determined without further delay ;

It is declared and enacted as follows :—

1. [Rules not applicable to certain districts.] *Rep. Act IV of 1894.*

2. The <sup>3</sup>[Provincial Government] may appoint in any zila or other Power to  
 division of the territories subject to the Presidency of Bombay, which appoint Inám  
 were not brought under the general Regulations of Government by <sup>4</sup>\* \* \* Commissioner  
 Regulation <sup>5</sup>XXVIII of 1827, an Inám Commissioner with so many with Assist-  
 Assistants, and such subordinate establishment, as may be necessary ants and  
 for the purposes hereinafter mentioned. establish-  
ments.

3. The duties of each Inám Commissioner and his Assistants shall be Duties how  
 discharged according to the rules in Schedule A annexed to this Act. discharged.

4. In the adjudication of claims to exempt lands or interests therein, Determina-  
 the titles of claimants shall be determined by the rules in Schedule B tion of titles  
 annexed to this Act. of claimants  
to exemption.

5. Each Inám Commissioner and his Assistants shall have the same Powers to  
 authority to procure the attendance of witnesses, and to take evidence, as enforce  
 now is, or from time to time may be, by law vested in the ordinary Civil attendance of  
 Courts ; and so far as concerns the penalties for not giving evidence, for witnesses to  
 false testimony, for resistance of process, contempts and other like matters take evi-  
 connected with cases under cognizance by any one of the said officers, dence, etc.

<sup>1</sup> As to the application of this Act, see the Bombay Land-revenue Code, 1879 (Bom. 5 of 1879), section 127.

The short title was given by Bom. 2 of 1921.

<sup>2</sup> The words and figures " and incapable of being justly disposed of under the rules for the determination of titles and the rules of procedure contained in Chapters IX and X of Regulation XVII of 1827 of the Bombay Code and their supplements " were repealed by the Repealing and Amending Act, 1894 (4 of 1894).

<sup>3</sup> The words " Provincial Government " were substituted for the words " Governor of Bombay in Council " by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The words " the said " were repealed by the Repealing and Amending Act, 1894 (4 of 1894).

<sup>5</sup> B.m. Reg. 28 of 1827 was repealed by the Repealing Act, 1873 (12 of 1873).

his office shall be held to be a Court of civil jurisdiction of the same authority as the superior Civil Court of the zila or district in which his office from time to time shall be established.

Complaints against, or appeals from, proceedings of Commissioner and Assistants. Provided that all complaints against, or appeals from, the proceedings of the Inám Commissioner or any of his Assistants in exercise of the authority conferred on them respectively by this section, shall be made under the second rule of Schedule A annexed to this Act: and shall not be cognizable by any other authority or in any other manner than as therein specified.

Punishment of misconduct of officers on Commission. 6. Bribery, extortion, and generally all acts of abuse or misapplication of authority, or other misconduct, committed by any officer belonging to the establishment of the Inám Commission, or temporarily employed therein under the provisions of this enactment, shall be punishable as criminal offences with fine and ordinary imprisonment without labour for a period not exceeding five years, and the receipt of a present, directly or indirectly, by any such officer from any person against whom or in whose behalf he may be officially employed, shall be considered extortion.

Extortion defined. And no penalty or punishment adjudicated under this clause shall preclude any other civil prosecution to which the offender may be liable.

Other prosecution not barred. 7. [Jurisdiction of Courts barred.] Rep. Act X of 1876.

#### SCHEDULE A.

##### RULES FOR DEFINING THE DUTIES OF EACH INAM COMMISSIONER AND HIS ASSISTANTS.

Duty defined. 1. The duty of the Inám Commissioner and his Assistants shall be to investigate, in the manner prescribed by this enactment, the titles of persons holding or claiming against Government the possession or enjoyment of ináms or jágirs, or any interest therein, or claiming exemption from the payment of land-revenue, and generally to act according to the instructions <sup>1</sup>[of the Provincial Government] in all matters not specifically provided for in this enactment.

Appeal from orders of Assistant Commissioners and Commissioner. 2. All orders of the Assistant Commissioners shall be appealable to the Inám Commissioner, who shall also have the authority of revising and of modifying, reversing or annulling, if necessary, their orders and proceedings, and the orders and proceedings of the Inám Commissioner shall be in like manner appealable to, and subject to modification, reversal or annulment by, <sup>2</sup>[the tribunal constituted under section 296 (2) of the Government of India Act, 1935], <sup>3</sup>[orders of which] shall in every case be final.

Duty to receive statements of title. 3. The Inám Commissioner or his Assistants shall receive from the persons, holding or claiming to hold lands or any interest therein exempt

<sup>1</sup> The words "of the Provincial Government" were substituted for the words "of Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words, figures and brackets "the tribunal constituted under section 296 (2) of the Government of India Act, 1935" were substituted for the words "the Governor of Bombay in Council" by *ibid*.

<sup>3</sup> The words "orders of which" were substituted for the words "whose orders" by *ibid*.

from the payment of revenue, statements explaining the nature of the title by which the lands or interests are so held, and shall take and record the evidence offered in support of such statements. and record evidence in support.

4. These statements may be received either directly by the officers of the Inám Commission, or through the medium of the revenue-authority of the táluqa in which the land or interest so held or claimed as exempt is situated, or in which the alleged proprietor resides, without any previous procedure, except a general invitation to such landholders of a district who shall hold or claim to hold lands exempt as aforesaid to state the nature of their titles. Statements how received.

5. But, when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein wholly or partially exempt as aforesaid, requiring him, personally or by his agent, to show his title. Notice when to issue.

The notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands or interest, held or claimed to be held exempt as aforesaid, to attend either personally or by an authorized agent, at a specified place, and within a specified period (which shall never be less than two months from the date of the notice being served), to explain the nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it. Contents of notice.

The notice shall further explain that a failure to comply with its terms will render the land, or interest to which it relates, liable to attachment.

6. The notice shall be served upon the party holding or claiming to hold the land or interest exempt as aforesaid, or, if his place of residence be not known, upon the person acting for him, or, in default of such, upon the person in charge of the land or interest. Service of notice.

7. If such persons cannot be found, a notice shall be posted in the office of the Native Revenue-officer of the district, and in the chauri or most public place of the village where the land or interest under inquiry is situated, calling on any person who may claim as proprietor to appear, either personally, or by his agent, to prove his title within six months from the date of the notice, under penalty of the attachment of the land or interest, and, on failure of the appearance of a claimant, the land or interest shall be liable to attachment. Posting notice when landholder not found.

8. The attachment provided for by rules 5 and 7 shall be enforced by the Collector or chief revenue-authority of the district in which the land to which it relates is situated, at the written requisition of the Inám Commissioner or his Assistant, which shall be a sufficient warrant to the Collector for the attachment of the land, and for the collection of the rents accruing therefrom on account of Government during its attachment. Attachment by whom enforced.

Procedure on receipt of statements and evidence of title. 9. As soon as possible after the receipt of the statements in each district and of the evidence by which they are supported, they shall be tested by the entries in the Government accounts and State records, and by any other evidence procurable, whether in favour of Government or of the claimants, and decisions shall then be passed on them as to the continuance, resumption or full or partial assessment of the lands.

Procedure on failure of notice to procure attendance. 10. In cases where the notices provided for in sections 5 and 7 fail to procure the attendance of the persons to whom they are addressed, and no claimant appears to prosecute his claim, the Commissioner or Assistant Commissioner shall proceed to ascertain the facts of the case from such evidence as may be forthcoming or procurable, and shall pronounce such decision thereupon as to him shall seem just regarding the lands or interests to which the notices referred.

Removal of attachment. 11. An attachment enforced under rule 8 shall be removed by the Collector or chief revenue-authority by whom it was made, on receipt of a communication from the Inám Commissioner or his Assistant, certifying that he considers the attachment to be no longer necessary; but the rents collected from the land during its attachment shall in no case be restored to the alleged proprietor, except under the general or special instructions <sup>1</sup>[of the Provincial Government].

Restoration to proprietors of rents collected. 12. Certified copies of decisions, made according to the provisions of rule 9, shall be delivered, as soon as possible after each decision is passed, to the persons on whose claims the decision shall have been pronounced, or their agents; and copies of all decisions made in the absence of any claimant according to the provisions of rule 10 shall be sent to the mámlatdár, or other revenue-manager of the *talúq* in which the lands to which they relate are situated, who shall deliver them to the parties affected by them, should they be discoverable, or otherwise cause them to be publicly posted in the village to which the lands in question belong.

Copies of decisions to be delivered to claimants. Copies of decisions made in their absence how dealt with. Execution of decision. 13. Decisions affecting any lands or any interests therein passed under this enactment shall be carried into execution by the Collector or chief revenue-authority of the district in which the lands to which they relate are situated at the requisition of the Inám Commissioner or his Assistant, in any manner which may, from time to time, be prescribed by <sup>2</sup>[the Provincial Government].

Procedure in appeal. 14. In all cases where a person may be desirous of appealing against any decision of the Inám Commissioner or his Assistants, he shall apply by a petition, addressed to the authority by whom, according to rule 2, his appeal is cognizable, which petition shall be presented to such authority within one hundred days from the date of the decree appealed against, a copy of which must accompany the petition of appeal, and

<sup>1</sup>The words "of the Provincial Government" were substituted for the words "of Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "the Provincial Government" were substituted for the words "the Governor of Bombay in Council" by *ibid.*

no appeal which is not so made shall be admitted, without proof of the existence of a just and necessary cause for its not having been preferred in due time; and it is hereby provided that no decree passed by the Inám Commissioner or any of his Assistants shall be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

## SCHEDULE B.

### RULES FOR THE ADJUDICATION OF TITLES TO ESTATES CLAIMED AS INAM OR EXEMPT FROM PAYMENT OF LAND-REVENUE.

1. All lands held under a specific and absolute declaration by the British Government, or any competent officer acting under it, that they were to be continued hereditarily or in perpetuity exempt, wholly or partially, from the payment of revenue, are to be so continued according to the purport of such declaration.

*Provision 1st.*—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commissioner or Assistant Commissioner is to suspend his judgment, and report the circumstances of the case to <sup>1</sup>[the Provincial Government], to <sup>2</sup>[which] a power is hereby reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant Commissioner, upon receiving the determination of <sup>1</sup>[the Provincial Government], shall decide accordingly.

2. Any land held under a sanad declaring it to be hereditary shall be so continued according to the terms of the sanad.

*Provision 1st.*—Provided that the grant was either made, or specifically recognised, by authority competent to alienate Government revenue in perpetuity, the question of which recognition and competency is to be referred to and determined <sup>3</sup>[by the Provincial Government] in the manner prescribed by provision 1st, rule 1.

*Provision 2nd.*—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land, or the rules of public decency.

<sup>1</sup> The words "the Provincial Government" were substituted for the words "the Governor of Bombay in Council" and "the said Governor in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The word "which" was substituted for the word "whom" by *ibid.*

<sup>3</sup> The words "by the Provincial Government" were substituted for the words "by Government" by *ibid.*

and grant not revoked, disallowed or altered.

*Provision 3rd.*—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognized by a competent authority.

Continuance of holdings exempt or partially exempt for sixty years before British rule.

3. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of sixty years before the introduction of the British Government, and then in the authorized possession of a grandson in male descent or male heir of the body of such grandson, of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only.

Continuance of holdings so exempt for forty years.

4. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of forty years before the introduction of the British Government, and then in the authorized possession of a son, or male heir of the body of a son, of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son.

Authorised possession how proved.

*Provision 1st.*—The authorized possession contemplated by rules 3 and 4 does not involve the necessity of proving any specific authority from, or recognition by, the Government or paramount Power. The mere entry of the holding, as continued in the genuine accounts of the district-officers (even in those not audited and passed by the Government of the time being), will be sufficient to bring it under the heads of “uninterrupted” and “authorized” so far as regards the purposes of this rule: Provided only that there are no entries in the Collectorate-accounts which show that the holding of such lands exempt as aforesaid must have been unauthorized by the Government or paramount Power.

Prescriptive right of claimant when admissible.

*Provision 2nd.*—If there be no evidence forthcoming to disprove a claimant’s assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of rules 3 and 4 respectively, his prescriptive right shall be admitted.

Introduction of British Government when to date— in territories late of Peshwa,

*Provision 3rd.*—The introduction of the British Government is to be reckoned from the time the East India Company became the Government or paramount authority over each district as regards its ináms. In the territories ceded by or conquered from the Peshwa, therefore, whether khalsat maháls or saranjáms, etc., held exclusive of ináms, etc., the introduction of the British Government will date from the close of that of the Peshwa.

in independent principality or jagir more ancient than Peshwa’s government.

But in case of the lapse of an independent principality, or of a jagir more ancient than the Peshwa’s government, and over the ináms of which he did not claim any authority, the introduction of the British Government should be reckoned only from the date at which the general management of the districts may have come into the hands of the Company;

and in case any question shall arise as to the precise date when the East India Company became the Government over any district, or when the general management of any district came into their hands, such question shall be referred to and determined <sup>1</sup>[by the Provincial Government] in the manner prescribed by provision 1st, rule 1.

Disposal of question as to date of East India Company acquiring Government.

**26.** Land held as wholly exempt from payment of revenue, or on partial assessment, the possession of which is not continuable under the preceding rules, is to be resumed on the demise of the incumbent.

Land resumable on demise of incumbent.

*Provision 1st.*—In case the incumbent at the time of the introduction of the British Government may have died, the permission to hold for life is to be extended to the person in whose name the land may be continued, when the investigation is commenced, if there be no fraud apparent, nor other reason for withholding this indulgence.

Extension of life tenure of holding of which incumbent died before British rule.

*Provision 2nd.*—When land is evidently held by fraud recently committed (as when an inam which was resumed under the late Government has been re-occupied under the present Government without authority, or as when a pretended inam is found to have originated since the introduction of this Government with the connivance of district or village-officers), it shall be at once resumed, not being continuable under this or any of the preceding rules.

Resumption of land held by fraud.

**7.** All lands held for the support of mosques, temples or similar institutions, of the permanent character of which there can be no doubt, are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted.

Continuance of holdings for support of mosques, temples, etc.

*Provisions 1st, 2nd and 3rd.*—The same as the corresponding provisions of rule 2 of this Schedule in those cases in which title-deeds or other records proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Corresponding provisions of rule 2 applied.

*Provision 4th.*—When there is no proof forthcoming to show whether or not an inam, coming under the provisions of this rule, was granted, or even specifically recognized, by a competent authority, still, if it has been undisputedly enjoyed for a period of forty years before the introduction of the present Government, it shall be permanently continued, and enjoyment proved by the mere entry of the inam, as continued in genuine accounts of the district-officers (even in those not passed by the Government of the time being), is to be considered sufficiently “uninterrupted” to give an inam the benefit of this provision, if there be no entries in the Government accounts which show that it must have been unauthorized by them.

Effect of enjoyment for forty years where no proof of grant forthcoming.

*Provision 5th.*—If the forthcoming records do not go far enough back to test the existence of enjoyment of the duration contemplated in provision 4th as establishing full prescriptive title in such inams, still, if so far as they do go, they are not opposed to the claimant’s assertion that

Prescriptive title when admissible where records do not go back enough to test enjoyment for forty years.

<sup>1</sup>The words “by the Provincial Government” were substituted for the words “by Government” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>There is no rule numbered 5.



sufficient enjoyment has taken place, the prescriptive title of the inám shall be admitted according to his assertions, unless there be other evidence forthcoming to disprove them.

Rule where not applicable.

*Provision 6th.*—The peculiar advantages of this rule shall not apply to the holdings of individuals in their own names for the performance of ceremonial worship, claims to which must be decided under the rules for personal claims.

Adjudication of certain claims coming under rule.

*Provision 7th.*—When claims of the denomination coming under this rule are found to be unsupported by proof of original valid title and are proved void of sufficient prescriptive enjoyment, they are to be adjudicated according to rule 6.

Continuance of holdings by official tenure meant to be hereditary.

8. All lands authorizedly held by an official tenure which it is evident from local usage was meant to be hereditary, and has been so considered heretofore even though there be no sanads declaring it to be so,—for instance, inams which form the authorized emoluments of any hereditary office, as of kázis, village joshis, etc., and are not merely personal,—are to be continued permanently.

Corresponding provision of rule 2 applied.

*Provisions 1st, 2nd and 3rd.*—The same as the corresponding provisions of rule 2 of this Schedule in those cases in which title-deeds or other records, proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Continuance of inám enjoyed as official holding during period covered by evidence though grant or recognition not proved.

*Provision 4th.*—When there is no proof forthcoming to show whether or not an inám, coming under the provisions of this rule, was granted or even specifically recognised by competent authority, still, if it has been undisputedly enjoyed as an official, and not merely personal, holding from the earliest period to which the forthcoming evidence does relate, it shall be continued permanently as official emolument, unless the claimant's own statement renders this course improper.

Exemption from rule of emoluments for certain services to State.

*Provision 5th.*—The provisions of this rule are not in any way to apply to emoluments continued for service performed to the State, as the service watans of desáis, sardesáis, náгдаudas, deshпándes, patels, kulkarnis, mhárs, talaváras, whose claims are to be disposed of according to the rules which are or may be established for the regulation of such holdings.

Length of enjoyment by itself does not entitle to benefit of rule.

*Provision 6th.*—It is to be understood that mere length of enjoyment of land as inam by an official person is not of itself sufficient to entitle a claim to be brought under this rule.

Benefit of preceding rules when allowable.

*Provision 7th.*—If a holding claimed under this rule be found incapable of permanent continuance under it, the claimant shall be allowed the advantages of any of the preceding rules of this Schedule which may be applicable to his case.

Provision for widows of last incumbents of resumed holdings.

9. On the resumption of any lands under the rules of this Schedule, a moiety or other portion may be continued to the widows of the last incumbents during their lives, in cases of proved poverty and destitution.

*Provision 1st.*—In the case of a holding which is recognizable as an hereditary personal inám, the widow of a proprietor who dies without surviving male issue, or other heirs to whom his inám will of necessity descend, is by right his sole heir, and during her life the inám cannot be regarded as having lapsed to <sup>1</sup>[the Crown] : it should, therefore, in such a case, be continued undiminished during the widow's life.

Continuance to widow and sole heir of holder of hereditary personal inám.

10. These rules shall not be necessarily applicable to jágirs, saranjám or other tenures for service to <sup>1</sup>[the Crown], or tenures of a political nature, the titles and continuance of which shall be determined as heretofore under such rules as <sup>2</sup>[the Provincial Government] may find it necessary to issue from time to time.

Exception of certain tenures from application of rules.

11. Any of these rules may be relaxed in favour of claimants under instructions from <sup>3</sup>[the Provincial Government], in <sup>4</sup>[which] shall also be vested the power of interpreting the precise meaning of any of the rules respecting which a question may arise.

Modification in favour of claimants and interpretation of rules.

<sup>1</sup> The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "the Provincial Government" were substituted for the word "Government" by *ibid.*

<sup>3</sup> The words "the Provincial Government" were substituted for the words "the Governor of Bombay in Council" by *ibid.*

<sup>4</sup> The word "which" was substituted for the word "whom" by *ibid.*

THE SHORE NUISANCES (BOMBAY AND KOLABA) ACT, 1853.

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PREAMBLE.

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7. Saving of rights of Crown.
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SCHEDULE.

ACT No. XI OF 1853.<sup>1</sup>

[THE SHORE NUISANCES (BOMBAY AND KOLABA) ACT, 1853.]

[15th July 1853.]

Repealed in part, by Act 22 of 1855 ;

" " " " " 14 of 1870.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

*An Act to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Kolaba.*

WHEREAS there is a large sea-shore in the islands of Bombay and Kolaba, Preamble.  
and it is expedient, with a view to the safe navigation of the harbour of Bombay, and to the public interests generally, to facilitate the removal of nuisances, obstructions and encroachments below high-water mark in the said harbour, or upon or about the shores of the said islands; It is enacted as follows:—

1. It shall be lawful for the Collector of Land-revenue at Bombay Power to give notice to remove nuisance.  
to give notice requiring the removal of any nuisance, obstruction or encroachment anywhere below high-water mark in the said harbour of Bombay, or upon or about the shores of the said islands; such notice shall be given by affixing the same in some conspicuous place on or near to the encroachment, obstruction or nuisance complained of, and by publication thereof in the <sup>2</sup>[Official Gazette], and shall state that, Mode of giving notice.  
unless the nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector; such notice may be in the Form No. 1, in the Schedule to Contents.  
this Act annexed, or to the like effect. Form.

2. If any person shall deny the right of the said Collector to effect such abatement or removal, he shall, within one month after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay by petition, setting forth the grounds of his alleged right and praying that the said Collector may be restrained from causing such abatement or removal; and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions and make such orders as the said Court may think just, and the said Court may also Petition by person denying right to remove nuisance.  
make an order for restraining the alleged nuisance, obstruction or encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution. Procedure thereupon.

3. Upon the hearing of every such petition, the onus of proving the alleged right shall be on the petitioner. Onus of proving right.

4. No person shall be allowed, after the expiration of such period of one month, to present any such petition as aforesaid, unless on satisfactorily accounting to the said Court for the delay. Limitation of time for petition.

<sup>1</sup> This Act, so far as it relates to the removal of any obstruction, impediment or public nuisance affecting, or likely to affect the navigation of the port of Bombay, was repealed by Act 22 of 1855.

The short title was given by Bom. 2 of 1921.

<sup>2</sup> The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by the Adaptation of Indian Laws Order in Council.

When Collec- 5. If no such petition shall be presented within the said period of one  
tor may cause month, or if the same be presented and determined against the right of the  
removal of petitioner, or be dismissed for want of prosecution, it shall be lawful for the  
nuisance. Collector to cause such abatement or removal as aforesaid by any person  
or persons to be authorized by warrant under his hand, and such warrant  
Form of may be in the form No. 2 in the schedule to this Act annexed, or to the  
warrant. like effect; and the said Collector, and any person acting under his  
Indemnity. warrant, shall not be answerable for any damage unavoidably occasioned  
in the removal of any such nuisance, obstruction or encroachment.

Power to sell 6. The said Collector may sell the materials of any encroachment or  
materials of obstruction removed under this Act, and may apply the proceeds of sale  
encroach- in or towards payment of the expenses of the removal, and, if any surplus  
ment. shall remain, the same shall be forfeited, and be paid and applied in such  
manner as the <sup>1</sup>[Central Government] shall direct.

Saving of 7. Nothing in this Act shall prejudice or affect the rights of <sup>2</sup> \* \* \* \*  
rights of the Crown in any part of the said harbour, or of the sea-shore of the said  
Crown. islands, or preclude or interfere with any such proceedings, civil or  
criminal, for abating such nuisances and encroachments as aforesaid, as  
might have been had if this Act had not been passed.

" High-water 8. The words "high-water mark" in this Act shall mean the ordinary  
mark" de- line of high-water at monsoon tides.  
fined.

### SCHEDULE.

#### FORM No. 1.

NOTICE is hereby given by the Collector of Land-revenue in Bombay, under Act No. XI of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof; otherwise the same will be removed or abated by the said Collector under the authority of the said Act.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ in the year of  
our Lord

(Signature of Collector.)

#### FORM No. 2.

THIS warrant, granted by the Collector of Land-revenue in Bombay, under Act No. XI of 1853, is to authorize \_\_\_\_\_ of \_\_\_\_\_ to remove (*describe encroachment*).

(Signature of Collector.)

Dated \_\_\_\_\_

<sup>1</sup>The words "Central Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "the East India Company as trustees for" were repealed by the Repealing Act, 1870 (14 of 1870).

**THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857.<sup>1</sup>**

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13. Retail sale to be only at place mentioned in license.  
Name and number to be affixed to shop.
14. Monthly returns of stock to be made by retail dealers.
15. Retail dealer to enter in book weight, etc., of tobacco received.  
Inspection of book.
16. Search-warrant.
17. Power to arrest and detain ; to search vehicles, etc.
18. Confiscation of tobacco illegally imported, removed, etc.  
Mitigation of penalty.  
Enforcement of fine.
19. Penalty for illegal importation, removal, sale or possession.  
Revocation of license.
20. Levy of fines, and adjudication and sale of confiscations.
- 20A. Publication of rules.
- 20B. The Commissioner of Excise and other officers appointed by Government to exercise powers and perform duties of the Commissioner of Customs, Salt and Opium and Customs Officers.
21. Interpretation clause.
22. Meaning of Government.

## SCHEDULE A.—FORM OF PERMIT.

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<sup>1</sup> This short title was given by Bom. 2 of 1921.

**ACT No. IV OF 1857.**

[THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857.]

[9th February 1857.]

Repealed in part, by Act 14 of 1870;

    "    "    "    "    "    16    "    1874;

    "    "    "    "    "    12    "    1876;

    "    "    "    "    "    12    "    1891;

Amended by Bombay "    1    "    1932;

    "    "    "    "    "    14    "    1933.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to amend the law relating to the duties payable on tobacco and the retail sale and warehousing thereof in the Town of Bombay.**

WHEREAS it is expedient to amend the law relating to the duties payable on tobacco and the retail sale and warehousing of that article in the town of Bombay; It is hereby enacted as follows :

1. [*Repeal of enactments.*] *Rep. Act XIV of 1870.*

2. All tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the town of Bombay and intended for consumption therein shall be liable to a duty of <sup>1</sup>[thirty rupees] per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the municipal duty \* \* \* \* \*

3. The said municipal duty may be paid, at the option of the importer, either on the importation of the tobacco or after it has been warehoused as hereinafter provided.

3A. The Commissioner of Excise may appoint public warehouses and, on payment of such fees and subject to such terms and conditions as may be prescribed by him by general or special order, may license warehouses, wherein tobacco may be warehoused without payment of the municipal duty on the importation thereof and may cancel any such appointment or licence.

<sup>1</sup>The words "thirty rupees" were substituted for the words "seven rupees and eight annas" by section 3 of Bom. I of 1932 which Act came into force on the 19th day of March 1932 and which shall remain in force for 10 years in the first instance but which Government may extend for a further period not exceeding 10 years by a notification in the Official Gazette.

<sup>2</sup>The words "and such duty shall be leviable in addition to any customs-duty prescribed by law" were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>3</sup>Section 3A was inserted by section 2 of Bom. 14 of 1933.

Duty not paid on importation to be paid on removal from warehouse for consumption.      4. If the said municipal duty is not paid on importation, the tobacco shall be warehoused in a public or licensed warehouse <sup>1\*</sup> \* \* \* ; and the importer shall pay such duty on the said tobacco on its removal from the warehouse for consumption in the said town.

Remission of duty on re-exportation.      When tobacco so warehoused is re-exported to any place beyond the limits of the said town, the whole of the said municipal duty shall be remitted.

Drawback allowable on re-export.      <sup>2</sup>4A. When tobacco removed from a public or licensed warehouse for consumption in the said town on payment of the municipal duty under section 4, is re-exported to any place beyond the limits of the said town, seven-eighths of such duty paid shall be re-paid as drawback in the manner and subject to such conditions as may be prescribed by rules made by the Commissioner of Excise in this behalf.

Bombay a warehousing port for tobacco.      5. The port of Bombay shall <sup>3\*</sup> \* \* \* be held to be a warehousing port <sup>4\*</sup> \* \* \* so far as regards the warehousing of tobacco <sup>5\*</sup> \* \* \*.

Powers for collecting and enforcing payment of duty.      6. The Commissioner of Customs, Salt and Opium, and officers of customs shall have all the same powers and authorities for collecting and enforcing payment of the said municipal duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of customs.

Tobacco not to be imported otherwise than by sea. Landing-places to be prescribed.      7. It shall not be lawful, without the permission of the Commissioner of Customs, Salt and Opium, or other officer empowered by Government to grant such permission, to bring any tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing-places than such as may from time to time be prescribed by the Government <sup>6</sup> \* \* \*.

<sup>1</sup> The words and figures "within the meaning of Act XXV of 1836" were repealed by the Repealing Act, 1874 (16 of 1874).

<sup>2</sup> Section 4A was inserted by section 3 of Bom. 14 of 1933.

<sup>3</sup> The words "after the passing of this Act", were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>4</sup> The words and figures "within the meaning of Act XXV of 1836" were repealed by the Repealing Act, 1870 (14 of 1870).

<sup>5</sup> The words "and the provisions of the said Act, so far as the same are applicable, shall be applied to the warehousing of tobacco in the said town. The imports duty in the said Act mentioned shall, as to tobacco, include the municipal duty leviable under this Act" were repealed by Acts 12 of 1876 and 12 of 1891.

<sup>6</sup> The words "of Bombay" were omitted by the Adaptation of Indian Laws Order in Council.



8. The foregoing provisions of this Act shall not be applicable to such small quantities of tobacco (not exceeding in weight <sup>1</sup>[half a seer] of eighty tolas to the seer) as are intended for the private consumption of the importer. Exemption from duty.

9. It shall not be lawful to remove any tobacco from one place to another within the said town, nor to carry or convey the same on any thoroughfare in the said town, nor to carry the same in any vessel or boat of less than forty khandis burthen in any of the creeks or waters adjacent to the said town, without a permit from the Commissioner of Customs, Salt and Opium, which permit shall be in the form of Schedule A to this Act annexed, or to the like effect : Permit necessary for removal of tobacco.

any such permit shall be in force only between sunrise and sunset of the day for which it is granted :

Provided always, that it shall be lawful to convey without a permit any tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of tobacco, not exceeding in weight <sup>1</sup>[half a seer] of eighty tolas to the seer, for personal or domestic use. Proviso.

10. No permit shall be granted for the removal from warehouse of any quantity of tobacco less than an entire bale or package : No permit for removal from warehouse of less than a bale.

Provided that, when tobacco is to be removed for consumption in the said town, the Commissioner of Customs, Salt and Opium, may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste ; and the said refuse or waste may be re-exported, under the rules for the re-export of tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner. Proviso.

11. It shall not be lawful for any person to sell or offer for sale by retail any tobacco in the said town without a license from the Commissioner of Customs, Salt and Opium, or other officer duly empowered by <sup>2</sup>[the Provincial Government] in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act. License for retail sale of tobacco.

A fee of one rupee shall be paid for every such license.

12. Any sale of tobacco not exceeding in weight fourteen seers of eighty tolas to the seer shall be deemed to be a retail sale within the meaning of this Act. What to be deemed retail sale.

<sup>1</sup> The words " half a seer " were substituted for the words " four seers " by s. 4 of Bom. I of 1932 which Act came into force on the 19th day of March 1932 and which shall remain in force for 10 years in the first instance but which Government may extend for a further period not exceeding 10 years by a notification in the Official Gazette.

<sup>2</sup> The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

Retail sale to be only at place mentioned in license. Name and number to be affixed to shop.

13. It shall not be lawful for any licensed retail dealer in tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license ; and the name of every retail dealer in tobacco, together with the number of his license, shall be written or painted in English, Gujarati and Marathi, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail sale is carried on.

Monthly returns of stock to be made by retail dealers.

14. Every retail dealer in tobacco shall, on or before the tenth day of each month, make to the Commissioner of Customs, Salt and Opium, or other officer as aforesaid a separate return for each shop or place of sale for which he holds a license, showing the quantity of tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which, he received it, and the stock remaining at the close of such month ;

and any retail dealer who refuses or neglects to make such return or makes a false return shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Retail dealer to enter in book weight, etc., of tobacco received.

15. Every retail dealer in tobacco shall, on the same day on which he shall receive any tobacco, into any such shop or place of sale, enter in a book to be kept for that purpose the weight of such tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it ;

Inspection of book.

and such book shall be open to the inspection of the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or of any person authorized by the Commissioner or such officer to inspect the same ;

and the Commissioner or other officer or person as aforesaid inspecting the said book may make any minute therein, or any extract therefrom, which he shall think fit ;

and any retail dealer who neglects or refuses to comply with the provisions of this section shall for every offence be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Search-warrant.

16. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, may issue a warrant under his hand and seal to any public officer, commanding him

to enter and search between sunrise and sunset any building or place to be specified in the warrant in which tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, which information shall be taken down in writing, that tobacco is deposited contrary to the provisions of this Act, and

to seize and to take away from thence any tobacco or other articles subject to confiscation under this Act.

17. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or any public officer authorised by the Commissioner or such officer may arrest and detain any person carrying or having charge of any tobacco liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such tobacco.

Power to arrest and detain ; to search vehicles, etc

18. All tobacco imported into the said town or removed from one place to another or kept within the said town, or found in the possession of any person in the said town selling or offering any portion thereof for sale contrary to the provisions of this Act, and

Confiscation of tobacco illegally imported, removed, etc

every vessel in which such tobacco is contained, and

every vehicle, boat or animal employed with the consent and knowledge of the owner or his servant in conveying the same,

shall be liable to confiscation :

Provided always that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation ; and every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation.

Mitigation of penalty. Enforcement of fine.

19. Any person who shall illegally import, remove or sell in the said town any tobacco, or who shall knowingly have in his possession any tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such tobacco ; and, if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt and Opium, or other officer as aforesaid.

Penalty for illegal importation, removal, sale or possession, Revocation of license.

20. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the town of Bombay.

Levy of fines and adjudication and sale of confiscations.

Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

20A. Rules made under this Act shall be subject to previous publication.

Publication of rules.

20B. The powers and authorities conferred on the Commissioner of Customs, Salt and Opium and the officers of customs under the provisions of this Act are hereby conferred on and shall be exercised respectively by the Commissioner of Excise and such officers as Government may from time to time by general or special order appoint in this behalf ; and

The Commissioner of Excise and other officers appointed by Government to exercise powers and perform duties of the Commissioner of Customs, Salt and Opium and Customs Officers.

<sup>1</sup> Sections 20A and 20B were inserted by s. 4 of Bom. 14 of 1933.

the duties imposed on the Commissioner of Customs, Salt and Opium, and the officers of customs under the provisions of this Act are hereby imposed on and shall be performed respectively by the Commissioner of Excise and the officers appointed by Government ;

and references in this Act to the Commissioner of Customs, Salt and Opium and the officers of customs shall be deemed references to the Commissioner of Excise and the officers appointed by Government respectively.

Interpreta-  
tion clause:

21. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction :—

the words “ town of Bombay ” shall include all places within the Islands of Bombay and Kolaba ;

words importing the singular number shall include the plural number and words importing the plural number shall include the singular number ;

words importing the masculine gender shall include females.

the words “ the Commissioner of Excise ” shall mean the officer appointed by Government for the time being to be the Commissioner of Excise.

Meaning of  
Government.

22. In this Act “ Government ” means, so long as the municipal duty is, by virtue of section 143 (2) of the Government of India Act, 1935, levied and collected by the Provincial Government, that Government, and thereafter the Central Government.

#### SCHEDULE A.

##### FORM OF PERMIT.<sup>3</sup>

No.

A. B. has been permitted to remove from (*Custom-house, or licensed warehouse, or shop No.* situated in *Kalbadevi Street, to warehouse or shop No.* in *Bazar Street*) the under-mentioned quantity of tobacco between sunrise and sunset on the \_\_\_\_\_ day of \_\_\_\_\_ in the year ..

(Signed)

*Commissioner of Customs, Salt and Opium.*

<sup>1</sup> This paragraph was added by s. 5 of Bom. 14 of 1933.

<sup>2</sup> S. 22 was inserted by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> See s. 9, *supra*.

**BOMBAY ACT No. XXIII OF 1866.<sup>1</sup>**

[THE BOMBAY HIGH COURT (LETTERS PATENT) ACT, 1866.]

[17th May 1866.]

**An Act to correct two clerical errors in the <sup>2</sup>Letters Patent for the High Court of Judicature for the Presidency of Bombay.**

WHEREAS the twenty-second section of the <sup>2</sup>Letters Patent for the Preamble. High Court of Judicature for the Presidency of Bombay, dated the 28th December, 1865, is as follows :—“ And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at *Fort William in Bengal* shall have criminal jurisdiction at the date of the publication of these presents ;”

And whereas it is expedient to correct the two clerical errors in such section which are hereinbefore indicated by italics ;

It is hereby enacted as follows :—

1. In lieu of the said recited section, the following shall be substituted :—

“ and we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents.”

Clause substituted for section 22 of revised Letters Patent of Bombay High Court.

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<sup>1</sup> For Proceedings in Council relating to this Act, which was introduced and passed at one sitting, see *Gazette of India*, 1866, Supplement, p. 255. The short title was given by Bom. 2 of 1921.

<sup>2</sup> General Statutory Rules and Orders.

THE BOMBAY CIVIL COURTS ACT, 1869.

C O N T E N T S.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.  
Extent.
2. [*Repealed.*]

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PART II.

DISTRICTS AND SADR STATIONS.

3. Alteration and creation of districts.
4. Position of sadr station.

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PART III.

DISTRICT COURTS.

5. District Judges.
6. Situation of District Court.
7. Original jurisdiction of District Court.
8. Appellate jurisdiction of District Court.
9. Control and inspection of Courts.
10. Writs and orders.  
Reports and returns.
11. Seal of District Judge.

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PART IV.

JOINT JUDGES.

12. Power to appoint Joint Judges.
13. Enactments applied to Joint Judge,  
Joint Judge's seal.

## PART V.

## SECTIONS. ASSISTANT JUDGES.

14. Power to appoint Assistant Judges.
15. Situation of Assistant Judge's Court.
16. Original jurisdiction of Assistant Judge.
17. Appellate jurisdiction of Assistant Judge.
18. Continuance of Assistant Judge's appellate jurisdiction.
19. Power to invest Assistant Judge with powers of District Judge.
20. Assistant Judge to use seal of District Judge.

## PART VI.

## SUBORDINATE JUDGES.

21. Number of subordinate Civil Courts.
22. Appointment of Subordinate Judges.
- 22A. Power to fix local limits of jurisdiction of Subordinate Judges.
23. Situation of Subordinate Courts.  
Appointment of Joint Subordinate Judges.  
Provisions applicable to Joint Subordinate Judges.
24. Classes of Subordinate Judges.  
Jurisdiction of Subordinate Judge of first class.  
Jurisdiction of Subordinate Judge of second class.
25. Special jurisdiction of Subordinate Judge of first class.
26. Appeals from his decision.
27. Appellate jurisdiction of Subordinate Judge of first class or  
Judge of Court of Small Causes.
28. Power to invest Subordinate Judges with small cause powers.
- 28A. Power to invest Subordinate Judges with jurisdiction under  
certain Acts.
29. Seal of Subordinate Judge.
- 30-31. [Repealed.]
32. Government suits.

## REMOVAL OR SUSPENSION.

33. [Repealed.]
34. [Repealed.]

PART VII.

TEMPORARY VACANCIES.

SECTIONS.

- 35. Temporary vacancy of office of District Judge.
  - 36. Delegation of powers of District Judge.
  - 37. Temporary vacancy of office of Subordinate Judge.
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PART VIII.

MINISTERIAL OFFICERS.

- 38. [*Repealed.*]
  - 39. Duties of ministerial officers.
  - 40. Power to appoint clerks of the Courts.
  - 40A. [*Repealed.*]
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PART IX.

MISCELLANEOUS.

- 41. Rules for keeping proceedings.
- 41A. Licensed petition-writers.
- 42. Fees for process.
- 43. Sittings of Courts.  
Vacation.

THE SCHEDULE [*Repealed.*]



ACT No. XIV OF 1869.<sup>1</sup>

[19th March 1869.]

Repealed in part, by Act 14 of 1870;

„ „ „ 12 of 1876;

„ „ „ 7 of 1889;

„ „ „ 8 of 1890;

„ „ „ 12 of 1891;

„ by Bom. Act 1 of 1910;

Amended by Act 10 of 1876;

„ „ „ 9 of 1880;

„ „ „ 15 of 1880;

„ „ „ 28 of 1930;

„ „ Bom. Act 3 of 1895;

„ „ „ 1 of 1900;

„ „ „ 5 of 1912;

„ „ „ 5 of 1914;

„ „ „ 6 of 1926;

„ „ „ 9 of 1927;

„ „ „ 7 of 1930.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.**

WHEREAS it is expedient to consolidate and amend the law relating Preamble. to the district and other subordinate Civil Courts in the Presidency of Bombay; It is hereby enacted as follows:—

**PART I.**

**PRELIMINARY.**

1. This Act may be called the Bombay Civil Courts Act, 1869, and Short title.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1869, p. 100; and for Proceedings in Council, see *ibid.* 1869, Supplement, pp. 59, 180, 185, 336, 421 and 464.

Extent. extends only to the territories (other than Sindh) under the government of the Governor of Bombay in Council in which the <sup>1</sup>Code of Civil Procedure is now in force.

But the <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], extend this Act to <sup>4</sup>[any other of the said territories] in which the said <sup>1</sup>Code is not in force, or to Sindh.

2. [*Repeal of enactments.*] *Rep. Act XIV of 1870.*

PART II.

DISTRICTS AND SADR STATIONS.

Alteration and creation of districts. 3. The <sup>2</sup>[Provincial Government] may from time to time, by a notification in the <sup>3</sup>[Official Gazette], alter <sup>5</sup>the limits of existing zilas (which shall hereafter be called districts) and create new districts for the purposes of this Act.

Position of sadr station. 4. The <sup>2</sup>[Provincial Government] may also from time to time, by notification in the <sup>3</sup>[Official Gazette], alter the position of the sadr station in any district, and fix the position of the sadr station in any new district.

PART III.

DISTRICT COURTS.

District Judges. 5. There shall be in each district a District Court presided over by a Judge to be called the District Judge. 6\* \* \* \* \*

Situation of District Court. 6. The District Judge shall ordinarily hold the District Court at the sadr station in his district, but may, with the previous sanction of the High Court, hold it elsewhere within the district.

1. See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

2. The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

3. The words "Official Gazette" were substituted for the words "Government Gazette" by *ibid.*

4. The words "any other of the said territories" were substituted for the words "any other of the territories under such Government" by *ibid.*

The Act has been extended to certain villages ceded and surrendered by the Nizam of Hyderabad and the Chief of Akalkot respectively, see Bombay Local Rules and Orders.

5. In this connection, see section 22-A *infra*.

6. The words "he shall be appointed by the Governor of Bombay in Council, by whose authority only he shall be liable to be suspended or removed from his appointment" were omitted by the Adaptation of Indian Laws Order in Council.

7. The words "The present Zila Judges shall be the first District Judges under this Act" were repealed by the Repealing Act, 1876 (12 of 1876).

7. The District Court shall be the principal Court of original civil jurisdiction in the district, within the meaning of the Code of Civil Procedure. Original jurisdiction of District Court.

8. Except as provided in sections 16, 17 and 26, the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force. Appellate jurisdiction of District Court.

9. The District Judge shall have general control over all the Courts and their establishments within the district, and it shall be his duty to inspect, or to cause one of his assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary. Control and inspection of Courts.

The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

10. The District Judge shall obey all writs, orders or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require. Writs and orders.

He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the <sup>1</sup>[Provincial Government]. Reports and returns.

11. The District Judge shall use a circular seal, two inches in diameter, which shall bear thereon the Royal Arms, with the following inscription in English and the principal language of the district:—  
“District Court of . . .” Seal of District Judge.

## PART IV.

### JOINT JUDGES.

12. The <sup>1</sup>[Provincial Government] may <sup>2</sup>\*\*\* appoint in any District a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court. Power to appoint Joint Judges.

3 \* \* \* \* \*

<sup>1</sup>. The words “Provincial Government” were substituted for the words “Governor of Bombay in Council” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>. The words “with the previous sanction of the Governor-General of India in Council” were repealed by section 3 and the 2nd Schedule of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

<sup>3</sup>. The second clause of section 12 was repealed by *ibid.*

Enactments applied to Joint Judge, Joint Judge's seal. 13. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge ; and the seal of the Joint Judge shall be the same as is used by the District Judge.

PART V.

ASSISTANT JUDGES.

Power to appoint Assistant Judges. 14. The <sup>1</sup>[Provincial Government]<sup>2\*</sup> \* \* \* \* \* may appoint one or more Assistants to the District Judge, <sup>2\*</sup> \* \* \* \* \*  
3 \* \* \* \* \*

Situation of Assistant Judge's Court. 15. An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the district, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do.

Original Jurisdiction of Assistant Judge. 16. The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to ten thousand rupees in amount or value <sup>4</sup>[applications or references under special Acts,] and miscellaneous applications not being of the nature of appeals.

The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications <sup>4</sup>[or references].

Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees.

5 \* \* \* \* \*

<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor of Bombay in Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " under the general control of the Governor General of India in Council " and " and may suspend or remove from his appointment any Assistant so appointed " were omitted by *ibid.*

<sup>3</sup> The words " The present Assistant Judges shall be the first Assistant Judges under this Act " were repealed by the Repealing Act, 1876 (12 of 1876).

<sup>4</sup> These words were inserted by section 2 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. 1 of 1900).

<sup>5</sup> The words and figures " The Assistant Judge shall, when directed by the District Judge so to do, also take evidence on applications for certificates under Bombay Regulation 8 of 1827 (to provide for the formal recognition of heirs, executors and administrators and for the appointment of administrators and managers of property by the Courts), Act No. XXVII of 1860 (for facilitating the collection of debts on successions and for the security of parties paying debts to the representatives of deceased persons) " were repealed by the Succession Certificate Act, 1889 (7 of 1889), and the words and figures " and Act No. XX of 1864 (for making better provision for the care of the persons and property of minors in the Presidency of Bombay) and shall forward it with his opinion thereon for the final orders of the District Judge, " were repealed by the Guardians and Wards Act, 1890 (8 of 1890).

17. The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

Appellate jurisdiction of Assistant Judge.

Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

18. A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under section 17, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the district in which he may be employed :

Continuance of Assistant Judge's appellate jurisdiction.

Provided that the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], at any time withdraw such power.

19. The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette] invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a district, and may, by like notification, from time to time determine and alter the limits of such part.

Power to invest Assistant Judge with powers of District Judge.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the <sup>1</sup>[Provincial Government], and may, with the previous sanction of the High Court, hold it at any other place within such limits.

20. Every Assistant Judge shall use the seal of the District Judge to whom he is Assistant.

Assistant Judge to use seal of District Judge.

PART VI.

SUBORDINATE JUDGES.

21. There shall be in each district so many Civil Courts subordinate to the District Court as the <sup>1</sup>[Provincial Government],<sup>3</sup> \* \* \* shall from time to time direct :

Number of subordinate Civil Courts.

<sup>1</sup> The words " Provincial Government " were substituted for the words " Governor of Bombay in Council " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " Official Gazette " were substituted for the words " Government Gazette " by *ibid.*

<sup>3</sup> The words " acting under the general control of the Governor General of India in Council " were omitted by *ibid.*

<sup>1</sup>[Provided that for special reasons it shall be lawful for the <sup>2</sup>[Provincial Government] at any time to close temporarily any such Subordinate Court.]

Appointment of Subordinate Judges. **22.** The Judges of such Subordinate Courts shall be appointed by the <sup>2</sup>[Provincial Government], and shall be called Subordinate Judges.

\* \* \* \* \*

Power to fix local limits of jurisdiction of Subordinate Judges. **22A.** The <sup>2</sup>[Provincial Government] may, by notification in the official Gazette, fix, and, by a like notification, from time to time, alter the local limits of the ordinary jurisdiction of the Subordinate Judges.

Situation of Subordinate Courts. **23.** The Subordinate Judges shall hold their Courts at such place or places as the <sup>2</sup>[Provincial Government] may from time to time appoint within the local limits of their respective jurisdictions :

<sup>3</sup>[Provided that for special reasons it shall be lawful for the <sup>2</sup>[Provincial Government] to order that a Subordinate Judge shall hold his Court at a place outside the local limits of his jurisdiction.]

Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate Judge shall hold his Court at each of such places, and the Subordinate Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one subordinate Court <sup>4</sup>[and may dispose of the civil business of any one of his Courts at the headquarters of any other of his Courts]; and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court.

<sup>1</sup> This proviso was inserted by section 3 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. 1 of 1900).

<sup>2</sup> The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "No person shall be appointed a Subordinate Judge unless he be a subject of Her Majesty or a subject of a Native Prince or State in India under the suzerainty of Her Majesty, and is also a person who has practised three years as an advocate of a High Court in India or as a vakil in the High Court of Judicature in Bombay, or who has qualified for the duties of a subordinate Judge according to such tests as may for the time being be prescribed by such High Court, or who has taken the degree of Bachelor of Laws in the University of Bombay."

The tests so prescribed by the High Court shall be notified in the Government Gazette" were omitted by *ibid.*

<sup>4</sup> Section 22A was inserted by section 2 of the Bombay Civil Courts Act, 1880 (9 of 1880).

<sup>5</sup> This proviso was inserted by section 4 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. 1 of 1900).

<sup>6</sup> The words "and may dispose of the civil business of any one of his Courts at the headquarters of any other of his Courts" were inserted by section 2 (1) of Bom. 7 of 1930.

<sup>1</sup>[For the purpose, of assisting the Judge of any subordinate Court in the disposal of the civil business on his file, <sup>2</sup>[the High Court may appoint to such court from the members of the Subordinate Civil Judicial Service of the Province]<sup>2</sup> one or more Joint Subordinate Judges, or the District Judge may, with the previous sanction of the High Court, depute to such Court the Judge of another subordinate Court within the district. A Subordinate Judge thus appointed or deputed to assist in the Court of another Subordinate Judge shall dispose of such civil business within the limits of his pecuniary jurisdiction as may, subject to the control of the District Judge, be referred to him by the Judge of such Court. <sup>3</sup>[He may also dispose of the civil business of his Court at the place of his deputation subject to the general or special orders of the High Court in this behalf.]<sup>3</sup>

Appointment of Joint Subordinate Judges.

For the purposes of this section the provisions of the Act applicable to Subordinate Judges shall be, and shall be deemed always to have been applicable to Joint Subordinate Judges: Provided that no such Joint Subordinate Judge shall hear and determine any suit instituted under section 4 of the <sup>4</sup>Dekkhan Agriculturists' Relief Act, 1879, unless the value of the said suit falls within the limits of the pecuniary jurisdiction conferred on him by that Act.]<sup>1</sup>

Provisions applicable to Joint Subordinate Judges.

24. The Subordinate Judges shall be of two classes.

Classes of Subordinate Judges.

The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceedings of a civil nature.

Jurisdiction of Subordinate Judge of first class

The jurisdiction of a Subordinate Judge of the second class extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees.

Jurisdiction of Subordinate Judge of second class.

<sup>5</sup>[Provided that the <sup>6</sup>[Provincial Government] may increase the limit of five thousand rupees to seven thousand and five hundred rupees in

[<sup>1</sup>-] These two paragraphs were substituted for the original last paragraph of section 23 by Bom. 1 of 1900, section 4.

The original paragraph was as follows :-

"The Judge of any subordinate Court may, with the previous sanction of the High Court, be deputed by the District Judge to the Court of another Subordinate Judge for the purpose of assisting him in the disposal of the suits on his file."

[<sup>2</sup>-] The words "the High Court may appoint to such Court from the members of the Subordinate Civil Judicial Service of the Province" were substituted for the words "the Governor of Bombay in Council may appoint to such Court" by the Adaptation of Indian Laws Order in Council.

[<sup>3</sup>-] This sentence was added by section 2 (2) of Bom. 7 of 1930.

<sup>4</sup> *Infra*.

<sup>5</sup> The proviso was added by section 3 of Bom. 7 of 1930.

<sup>6</sup> The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

the case of any Subordinate Judge of the second class, of not less than ten years' standing and specially recommended in this behalf by the High Court. A Subordinate Judge so empowered shall continue to exercise this power so long and as often as he may fill the office of a Subordinate Judge of the second class without reference to the District in which he may be employed, unless the powers are withdrawn by <sup>1</sup>[the Provincial Government].

Special  
jurisdiction  
of Subordi-  
nate Judge  
of first class.

25. A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature, <sup>2</sup>\* \* \* \* as may arise within the local jurisdiction of the Courts in the district presided over by Subordinate Judges of the second class <sup>3</sup>[and wherein the subject-matter exceeds the pecuniary jurisdiction of the Subordinate Judge of the second class as defined by section 24.]

In districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

Appeals from  
his decision.

26. In all suits decided by a Subordinate Judge <sup>4</sup>\* \* \* \* of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

Appellate  
jurisdiction  
of Subordi-  
nate Judge  
of first class  
or Judge  
of Court of  
Small Causes.

27. The <sup>5</sup>[Provincial Government] may invest any Subordinate Judge of the first class <sup>6</sup>[or any Judge of the Court of Small Causes established under the Provincial Small Cause Courts Act, 1887, in any place to which this section extends] with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the district. IX of 1887.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class <sup>6</sup>[or a Judge of a Court of Small Causes] shall have the same force as if passed by a District Judge.

<sup>1</sup> The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "wherein the subject-matter exceeds five thousand rupees in amount or value" were omitted by section 4 (1) of Bom. 7 of 1930.

<sup>3</sup> These words and figures were added by section 4 (2), *ibid*.

<sup>4</sup> The words "of the first class in the exercise of his ordinary and special original jurisdiction" were repealed by section 2 of Act 28 of 1930.

<sup>5</sup> The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

<sup>6</sup> These words were inserted by section 5 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. 1 of 1900).



<sup>1</sup>[A Subordinate Judge of the first class or a Judge of a Court of Small Causes, on whom the power of hearing appeals has once been conferred under this section, shall continue to have this power so long and so often as he may fill the office of Subordinate Judge of the first class or Judge of a Court of Small Causes respectively, without reference to the district in which he may be employed: Provided that the <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], at any time withdraw such power.]

28. <sup>4</sup>[The <sup>2</sup>[Provincial Government] may invest, within such local limits <sup>5</sup>as <sup>6</sup>[it] shall from time to time appoint, any Subordinate Judge with the jurisdiction of a Court of Small Causes for the trial of suits cognizable by such Courts up to such amount as <sup>6</sup>[it] may deem proper, not exceeding in the case of any Subordinate Judge of the first class one thousand rupees, and in the case of any Subordinate Judge of the second class <sup>7</sup>[three hundred] rupees.]

Power to invest Subordinate Judges with small cause powers.

The <sup>2</sup>[Provincial Government] may, whenever <sup>6</sup>[it] thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

<sup>8</sup>[28A. (1) The High Court may by general or special order invest any Subordinate Judge, within such local limits and subject to such pecuniary limitation as may be prescribed in such order, with all or any of the powers of a District Judge or a District Court as the case may be under the Indian Succession Act, 1865,<sup>9</sup> the Probate and Administration Act, 1881,<sup>9</sup> or paragraph 5 of Schedule III to the Code of Civil Procedure, 1908.]

Power to invest Subordinate Judges with jurisdiction under certain Acts.

to K of 1865.  
to V of 1881.  
to V of 1908.

<sup>1</sup> This paragraph was substituted for the original paragraph by Bom. 1 of 1900, section 5. The original paragraph was as follows:—

“The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.”

<sup>2</sup> The words “Provincial Government” were substituted for the words “Governor of Bombay in Council” by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words “Official Gazette” were substituted for the words “Government Gazette” by *ibid.*

<sup>4</sup> This paragraph was substituted for the original paragraph by section 6 of Bom. 1 of 1900.

The original paragraph was as follows:—

“The Governor of Bombay in Council may invest, within such local limits as he shall from time to time appoint any Subordinate Judge of the first class with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Subordinate Judge of the second class with the same jurisdiction up to the amount of fifty rupees.”

<sup>5</sup> That is, in territories other than those in which the Dekkhan Agriculturists' Relief Act, 1879 (17 of 1879), is in force; see section 5 of Act 17 of 1879, *infra*.

<sup>6</sup> The word “it” was substituted for the word “he” by the Adaptation of Indian Laws Order in Council.

<sup>7</sup> The words “three hundred” were substituted for the words “two hundred” by section 5 of Bom. 7 of 1930.

<sup>8</sup> Section 28A was inserted by section 2 of the Bombay Civil Courts (Amendment) Act, 1912 (Bom. 5 of 1912).

<sup>9</sup> See now the Indian Succession Act, 1925.

(2) Every order made by a Subordinate Judge by virtue of the powers conferred upon him under sub-section (1) shall be subject to appeal to the High Court or the District Court according as the amount or value of the subject-matter exceeds or does not exceed five thousand rupees.

(3) Every order of the District Judge passed on appeal under sub-section (2) from the order of a Subordinate Judge shall be subject to an appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals from appellate decrees.]

Seal of Subordinate Judge.

29. Each Subordinate Judge shall use a seal one inch and-a-half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the district:—“ Subordinate Judge of .”

30, 31. [First Subordinate Judges; pending proceedings.] Rep. Act XII of 1876.

Government suits.

1[32. (1) No subordinate court other than the court of a subordinate judge of the first class and no court of small causes shall receive or register any suit in which 2[the Crown] or any officer of 3[the Crown] in his official capacity is a party.

(2) In every such case the plaintiff shall be referred to the court of the Subordinate Judge of the first class and such suit shall be instituted only in the court of the subordinate judge of the first class and shall be heard by such subordinate judge, subject to the provisions of section 24 of the Code of Civil Procedure, 1908.

V of 190:

(3) Nothing in this section shall be deemed to apply to a suit against the administration of a Government railway: or to apply to any suit merely because an officer of 3[the Crown] is a party thereto, in his capacity of—

(a) member of a local authority,

(b) curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of powers under:—

(i) Order 32, rule 4 (4), of the Code of Civil Procedure, 1908; V of 1908

(ii) section 69 or 71 of the Indian Lunacy Act, 1912; IV c

(iii) section 7, 18 or 42 of the Guardians and Wards Act, 1890; VIII c

(iv) section 1 or 17 of the Ahmedabad Talukdars' Act, 1862; 1890.

(v) section 3, 19 (1), 19 (2), 20, 22 (1) or 41 (1) of the Bombay

Court of Wards Act, 1905]. Bom. V of 1862.

Bom. I c 1905.

<sup>1</sup> This section was substituted for the original section 32 by section 2 of the Bombay Civil Courts (Amendment) Act, 1926 (Bom. VI of 1926).

<sup>2</sup> The words “the Crown” were substituted for the words “the Secretary of State for India in Council” by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words “the Crown” were substituted for the word “Government” by *ibid.*

*Removal or Suspension.*

33. [*Commission of inquiry into alleged misconduct.*] Omitted by the *Adaptation of Indian Laws Order in Council.*

34. [*Suspension of Subordinate Judges by High Court; by District Judge. Saving power of Government to suspend or dismiss.*] Omitted by *ibid.*

## PART VII.

## TEMPORARY VACANCIES.

35. In the event of the death of the District Judge or of his being prevented from performing his duties by illness or other casualty, or of his absence from his district on leave, the first in rank of the Assistant Judges in the district, or in the absence from the district of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and thelike, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the district, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

36. Any District Judge leaving the *sadr* station and proceeding on duty to any place within his district may delegate to an Assistant Judge, or in the absence of an Assistant Judge to a Subordinate Judge at the *sadr* station, the power of performing such of the duties enumerated in section 35 as may be emergent; and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the *sadr* station.

37. In the event of the death, suspension or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any subordinate Court of the same district to perform the duties of the Judge of the vacated subordinate Court, either at the place of such Court or of his own Court; but in every such case the registers and records of the two Courts shall be kept distinct.

## PART VIII.

## MINISTERIAL OFFICERS.

38. [*Appointment etc., of ministerial officers.*] Omitted by the *Adaptation of Indian Laws Order in Council.*

Duties of ministerial officers.

39. The duties of<sup>1</sup>[the ministerial officers of the Civil Courts] shall be regulated by such rules as the High Court may from time to time prescribe.

Power to appoint clerks of the Courts.

40. <sup>2</sup>[There may be appointed to any Civil Court under this Act] a clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers.

40A. [Power to transfer clerk of the Court or ministerial officer.] Omitted by the Adaptation of Indian Laws Order in Council.

## PART IX.

### MISCELLANEOUS.

Rules for keeping proceedings.

41. The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted.

Licensed petition-writers.

<sup>3</sup>[41A. (1) The High Court may, from time to time, make rules consistent with this Act and any other enactment for the time being in force—

(a) declaring what persons shall be permitted to act as petition-writers in the Courts subordinate to it ;

(b) regulating the issue of licenses to such persons, the conduct of business by them, and the scale of fees to be charged by them ; and

(c) providing a penalty of fine not exceeding fifty rupees for the breach of any of the rules so made, and determining the authority by which such breaches of the rules shall be investigated and the penalties imposed.

(2) Every fine imposed under clause (c) of sub-section (1) shall be recoverable as if it were a fine imposed by a Magistrate in the exercise of his ordinary jurisdiction.]

<sup>1</sup> The words "the ministerial officers of the Civil Courts" were substituted for the words "the said ministerial officers" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "There may be appointed to any Civil Court under this Act" were substituted for the words "The District Judge may, under the general control of the Governor of Bombay in Council, appoint to any Civil Court under this Act within the local limits of his jurisdiction" by *ibid.*

<sup>3</sup> Section 41A was inserted by section 9 of the Bombay Civil Courts (Amendment) Act, 1900 (Bom. 1 of 1900).

42. The High Court shall from time to time, with the sanction of the <sup>Fees for</sup> <sup>Process.</sup> <sup>1</sup>[Provincial Government], prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court.

Tables of the fees so prescribed shall be published in the <sup>2</sup>[Official Gazette].

43. The District and Subordinate Courts shall sit from day to day except on Sundays, New Year's Day, Good Friday, Christmas Day and Her Majesty's Birthday, and such other days as may be sanctioned for each or every district by the High Court. <sup>Sittings of</sup> <sup>Courts.</sup>

The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year. <sup>Vacation.</sup>

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## THE SCHEDULE.

### ENACTMENTS REPEALED.

[*Rep. Act XIV of 1870.*]

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<sup>1</sup>The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words "Government Gazette" by *ibid.*

## THE CORONERS ACT, 1871.

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FIRST SCHEDULE.—[*Repealed.*]

SECOND SCHEDULE.—Form of Inquisition.



ACT No. IV OF 1871.<sup>1</sup>

[27th January 1871.]

Repealed in part, by Act 9 of 1871 ;  
 " " 10 of 1873 ;  
 " " 12 of 1873 ;  
 " " 16 of 1874 ;  
 " " 12 of 1891 ;  
 Repealed in part and  
 amended, by Act 10 of 1881 ;  
 " " 4 of 1908 ;  
 Amended by Act 5 of 1889 ;  
 " " 38 of 1920 ;  
 Amended by Bom. Act 13 of 1930.  
 Adapted and modified by the adaptation of Indian Laws Order in  
 Council.

## An Act to consolidate and amend the laws relating to Coroners.

WHEREAS it is expedient to consolidate and amend the laws Preamble.  
 relating to Coroners in the Presidency-towns ; It is hereby enacted as  
 follows :—

## CHAPTER I.

## PRELIMINARY.

1. This Act may be called the Coroners Act, 1871. Short title.

\* \* \* \* \*

2. [Repeal of enactments.] *Rep. Act XII of 1873.*

## CHAPTER II.

## APPOINTMENT OF CORONERS.

<sup>3</sup>[3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.] Coroners of Calcutta and Bombay:

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1870, Pt. V, p. 295 ; for Preliminary Report of the Select Committee, see *ibid.*, p. 351 ; and for Proceedings in Council, see *ibid.*, Supplement, pp. 1077, 1195, 1298 ; and *ibid.*, 1871, pp. 198 and 207.

<sup>2</sup> The local extent and commencement clauses of this section were repealed, respectively, by section 2, of the Coroners Act, 1881 (10 of 1881), and by the Repealing Act, 1874 (16 of 1874).

<sup>3</sup> This section was substituted by section 2 of the Coroners (Madras) Act, 1889 (5 of 1889).

The original section was as follows :—

“ Within the local limits of the ordinary original civil jurisdiction of each of the said High Courts, there shall be a Coroner. Such Coroner shall be called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.”

Their ap-  
pointment,  
suspension  
and removal.

4. Every such officer shall be appointed and may be suspended or removed by the <sup>1</sup>[Provincial Government]. \* \* \* \* \*

Coroners to  
be public  
servants.

5. Every Coroner shall be deemed a public servant within the XLV meaning of the Indian Penal Code. of 1860.

Power to  
hold other  
offices.

6. Any Coroner may hold simultaneously any other office under Government.

7. [Oath to be taken by Coroner.] Rep. Act X of 1873.

### CHAPTER III.

#### DUTIES AND POWERS OF CORONERS.

Jurisdiction  
to inquire  
into death.

38. (1) When the Coroner is informed that the dead body of a person is lying within his jurisdiction and there is reasonable cause to suspect that such person has died under any of the circumstances mentioned in section 9 or has died a sudden death of which the cause is unknown, the Coroner may proceed to hold a preliminary inquiry on the body, without a jury.

(2) For the purpose of an inquiry under sub-section (1) the Coroner shall, as soon as practicable, after receipt of the information proceed to view and examine the body. Such view and examination shall be held in the presence of the Police Officer to whose section the case belongs and, if possible, in the presence of the relations or friends, if any, of the deceased and the Coroner may reduce to writing such observations as the appearance of the body requires. When the inquiry is concluded if the Coroner is satisfied as to the cause of death and if a *post-mortem* examination is in his opinion not necessary, the Coroner may authorise the body to be disposed of.

Inquest by  
jury.

39. (1) If it appears to the Coroner, either before or in the course of an inquiry under section 8, that there is reason to suspect :—

(a) that the deceased came by his death by homicide, suicide or infanticide ; or

(b) that the death was caused by an accident, or poison, or machinery ; or

(c) that the death was caused by an occurrence arising out of the use of a vehicle in a street, public road or in a private place ; or

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

\* The words "Every person now holding such office shall be deemed to have been appointed under the Act" were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

\* Sections 8 to 20 were substituted for the original sections 8 to 20 by section 2 of Bom. 13 of 1930.

(d) that the death occurred in a prison in which the deceased was a prisoner or that it occurred whilst the deceased was in the custody of the police ; or

(e) that the death occurred in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public or any section of the public ;

and in any other case, if it appears to the Coroner either before or in the course of the preliminary inquiry that there is reason for holding an inquest by jury, he shall proceed to hold such inquest, whether or not the cause of death arose within his jurisdiction.

(2) Such inquest shall ordinarily be held in the Coroner's Court-house.

(3) The Coroner may hold one inquest on the bodies of several persons provided that they all are believed to have come by their deaths, in or in consequence of one and the same incident.

CLV of 860. of 1898. (4) Every such inquest shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code and for the purpose of any such inquest the Coroner shall have and may exercise all the powers of a Criminal Court under section 476 and section 480 of the Code of Criminal Procedure, 1898.

(5) The Coroner may hold an inquest by jury simultaneously with the preliminary inquiry.

<sup>110.</sup> (1) When a person dies in a prison situate within the local limits of the Coroner's jurisdiction or whilst he is in the custody of the police Superintendent of the prison or the police officer in charge of the section concerned, as the case may be, shall report the death to the Coroner and await his orders before the body is disposed of.

Report to Coroner when prisoner or person in police custody dies.

(2) Any Superintendent of Prison or any such police officer who fails to comply with the requirement in sub-section (1) shall, on conviction before a Magistrate, be punished with fine which may extend to five hundred rupees.

<sup>111.</sup> (1) Any person who, with the intention of preventing the holding of an inquest on a dead body which the Coroner is bound to hold under section 9, buries, cremates or otherwise disposes of it, and any person who with such intention abets such burial, cremation or disposal of a dead body shall, on conviction before a Magistrate, be punished with fine which may extend to five hundred rupees.

Penalty for disposal of body to prevent an inquest.

(2) Such punishment shall be in addition to the punishment to which such person may be liable for any offence of which he may be found guilty in respect of the death of the deceased or under section 201 of the Indian Penal Code.

XLV of 1860.

<sup>1</sup> Sections 8 to 20 were substituted for original sections 8 to 20 by section 2 of Bom. 13 of 1930.

Power to order body to be disinterred.

**112.** A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where further inquisition is, in the opinion of the Coroner, necessary or desirable in the interests of justice.

Summoning jury.

**113.** In order to the impanelling of a jury for an inquest under section 9 the Coroner shall summon not less than five nor more than eleven respectable persons to appear before him at a time and place to be specified in the summons for the purpose of inquiring where, when and by what means the deceased came by his death.

Opening Court. Jurors to be sworn.

**114. (1)** On the day and at the hour fixed for the inquest the Coroner shall proceed to open his court by proclamation and shall call over the names of the jurors on whom summonses under section 13 have been duly served. If not less than five jurors are in attendance the Coroner shall administer an oath to each juror to give a true verdict according to the evidence.

(2) If the number of jurors in attendance is less than five, or, if in the course of an inquest at any time before the return of the verdict a juror is absent and it is not practicable to enforce his immediate attendance, the Coroner may appoint such number of persons as may be necessary to serve as jurors in the inquest.

Inquest may be on Sunday or public holiday.

**114A.** An inquest under this Act or its adjourned hearing under section 21 may be held on a Sunday or a public holiday.

View of body.

**115.** At or before the first sitting of an inquest on a body the Coroner shall view the body and if before the body has been disposed of, a majority of the jurors so desire, it shall be viewed by the jurors also :

Provided that when a preliminary inquiry on the body has been held under section 8, or if from the medical evidence or from a medical certificate, the Coroner is satisfied that no advantage will result from such viewing, the Coroner may dispense with a view of the body at the inquest.

**116.** The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

**117. (1)** It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses. The Coroner shall inquire of such circumstances and the cause of death, and if before or during the inquiry he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence or produce any document material thereto, may issue a summons requiring him to attend and give evidence or produce such document on the inquest.

<sup>1</sup>Sections 8 to 20 were substituted for original sections 8 to 20 by section 2 of Bom. 13 of 1930.

(2) When any person so summoned fails to appear and the summons has been proved to be duly served on him in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure, the Coroner may, after recording his reasons in writing, issue a warrant for his arrest. Such warrant shall be executed as if it were issued under section 90 of the Code of Criminal Procedure, 1898.

of 18.

(3) Any person disobeying a summons issued under sub-section (1) shall be deemed to have committed an offence under section 174, section 175 or section 176 of the Indian Penal Code, as the case may be.

IV of 20.

(4) For the purpose of causing prisoners to be brought up to give evidence the Coroner shall be deemed a criminal court within the meaning of Part IX of the Prisoners' Act, 1900.

I of 100.

118. (1) If before proceeding to view a body under section 8 or at the view or at any stage of an inquest by jury, it appears to the Coroner that a *post-mortem* examination of the body is necessary to ascertain the cause of death, he may direct such examination to be held by his Surgeon or by a duly qualified Registered Medical Practitioner invited to attend as a witness. The Coroner may also direct an analysis of any of the organs or parts of the body or of their contents. Every Medical witness other than the Chemical Examiner to Government and the Coroner's Surgeon shall be entitled to such reasonable remuneration as the Coroner thinks fit. For the purpose of such *post-mortem* examination the Coroner may order the removal of the body to any place within his jurisdiction which may be provided for that purpose.

*Post-mortem* examinations. Fees to medical witnesses. Report of Chemical Examiner.

(2) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination, or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquest under this Act and in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1898.

I of 898.

119. (1) All evidence given under this Act, shall except in the case provided in sub-section (2), be on oath and the Coroner shall be bound to receive the evidence on behalf of the person who is alleged to have caused or to be concerned in causing the death of the deceased person.

Evidence to be on oath. Evidence on behalf of accused. Interpreter.

(2) If such person himself wishes to make a statement it shall be the duty of the Coroner to warn him that he is not bound to make any statement; but if such person persists, the Coroner shall, without administering him any oath, record his statement in full after duly warning him that any incriminating statement which he may make may be used in evidence in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1898.

of 898.

<sup>1</sup>Sections 8 to 20 were substituted for the original sections 8 to 20 by s. 2 of Bom. 13 of 1930.

(3) For the purpose of section 26 of the Indian Evidence Act, I of 1872, a Coroner shall be deemed to be a Magistrate.

(4) Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the question put to, and the answer given by each witness.

(5) After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions shall be put the Coroner shall put them accordingly.

Mode of recording evidence.

**20.** (1) The evidence given to the jury shall be recorded in the manner prescribed in section 356 of the Code of Criminal Procedure, V of 1898.

(2) For the purpose of this section the Coroner shall be deemed to be a Magistrate.

Adjournment of inquest.

**21.** The Coroner may adjourn the inquest from time to time, and from place to place.

Jurors' recognizances.

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

The amount of such recognizances shall in each case be fixed by the Coroner <sup>2</sup>[and the whole, or such part thereof as to the Coroner seems fit, shall, in default of attendance by the jurors, be recoverable in the same manner as a fine imposed under section 31.]

**21A.** (1) If on an inquest touching a death, the Coroner is informed, before the jury have given their verdict, that criminal proceedings have been instituted against some person before a Magistrate in respect of an offence touching the death of the deceased, he may adjourn the inquest until after the conclusion of the criminal proceedings and may, if he thinks fit, discharge the jury.

(2) After the conclusion of the criminal proceedings which it shall be the duty of the police to communicate to the Coroner, the Coroner may, subject as hereinafter provided, if he thinks fit, resume the adjourned inquest :

<sup>1</sup> Sections 8 to 20 were substituted for the original sections 8 to 20 by s. 2 of Bom. 13 of 1930.

<sup>2</sup> These words were added by s. 7 of the Coroners (Amendment) Act, 1908 (4 of 1908).

<sup>3</sup> Section 21-A was inserted by s. 3 of Bom. 13 of 1930.

Provided that at such resumed inquest no inquisition shall be held against any person in respect of any offence with which he was charged or of which he could have been convicted in the proceedings referred to in sub-section (1), and no finding shall be recorded which is inconsistent with the determination of any matter by the result of those proceedings.

(3) Where the Coroner resumes an inquest which has been adjourned and the jury has been discharged, he shall proceed in all respects as if the inquest had not previously been begun and the provisions of this Act shall apply accordingly as if the resumed inquest were a fresh inquest, except that it shall not be obligatory on the Coroner to view the body.

(4) If, having regard to the result of the criminal proceedings, the Coroner decides not to resume the inquest, he shall furnish the Commissioner of Police with a certificate stating the result of the criminal proceedings and any particulars necessary for the registration of the death which may have been ascertained.

(5) For the purposes of this section, the expression "the criminal proceedings" means the proceedings before a Magistrate and before any court to which the accused person is committed for trial or before which an appeal from the conviction of that person is heard, and criminal proceedings shall not be deemed to be concluded until no further appeal can be made in the course thereof.

22. When all the witnesses have been examined, the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict. Coroner to sum up to jury.

23. When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority. Coroner to draw up inquisition.

24. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth— Contents of inquisition.

(1) where, when and before whom the inquisition is holden,

(2) who the deceased is,

(3) where his body lies,

(4) the names of the jurors, and that they present the inquisition upon oath,

(5) where, when and by what means the deceased came by his death, and

(6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

Procedure where death is found due to an act amounting to an offence. <sup>1</sup>[25. When the jury or a majority of the jury find that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in British India, the Coroner shall immediately after the inquest forward a copy of the inquisition, together with the names and addresses of the witnesses, to the Commissioner of Police.]

Power to arrest and commit for trial. <sup>2</sup>[26. The Coroner may also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person who is found to have caused the death of the deceased person, and send him forthwith to a Magistrate empowered to commit him for trial.]

27. [Power to accept bail.] *Rep. Act IV of 1908, s. 10.*

Warrant for burial. 28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the <sup>3</sup>[disposal] of the body on which the inquest has been taken.

Inquisitions not to be quashed for want of form. 29. No inquisition found upon or by any inquest shall be quashed for any technical defect.

Amendment of inquisition. In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

Cessation of jurisdiction as to treasure trove, wrecks, etc. 30. It shall no longer be the duty of the Coroner to inquire whether any person dying by his own act was or was not *felo de se*, to inquire of treasure trove or wrecks, to seize any fugitive's goods, to execute process or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

*Felo de se.* A *felo de se* shall not forfeit his goods.

Deodands. Deodands are hereby abolished.

<sup>1</sup>Section 25 was substituted by s. 8 of the Coroners (Amendment) Act, 1908 (4 of 1908).

<sup>2</sup>Section 26 was substituted by s. 9, *ibid.*

<sup>3</sup>This word was substituted for the word "burial" by s. 11, *ibid.*



## CHAPTER IV.

## CORONERS' JURIES.

1 31. (1) The Coroner shall prepare and from time to time revise a list of sufficient number of persons of good character and adequate education, liable to serve as jurors in his Court. List of Jurors. Fine on juror neglecting to attend.

(2) All male persons between the ages of twenty-one and sixty whose names are not in the Common Jury list of the High Court, shall, subject to the exemptions mentioned in section 320 of the Code of Criminal Procedure, 1898, be liable to serve as jurors in the Coroner's Court.

(3) Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror, and upon the non-appearance of such person, and proof that such summons has been served upon him or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty rupees, as to the Coroner seems fit : .

Provided that the Coroner may, in his discretion, remit any fine so imposed.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine, Certificate as to defaulting juror.

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered. Service of copy of certificate.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself. Levy of fine.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest, and has not made default shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act. Jurors not to be summoned twice within the year.

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest. Jurors on inquest on prisoner.

<sup>1</sup>Section 31 was substituted by section 4 of Bom. 13 of 1930.

## CHAPTER V.

## RIGHTS AND LIABILITIES OF CORONERS.

- Coroner's salary.**      **36.** Every Coroner shall be entitled to such salary for the performance of the duty of his office as is prescribed in that behalf by the <sup>1</sup>[Provincial Government].
- Disbursements to be repaid.**      **37.** All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury, and the like, shall be repaid to him by the <sup>1</sup>[Provincial Government].
- Power to appoint deputy.**      **38.** Every Coroner may from time to time, with the previous sanction of the <sup>1</sup>[Provincial Government], appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests <sup>2</sup>\* \* \* \* \*.
- All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him :
- Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.
- Revocation of appointment.**      Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.
- Exemption from serving on juries.**      **39.** No Coroner or Deputy Coroner shall be liable to serve as a juror.
- Privilege from arrest.**      **40.** Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty.
- Penalty for failure to comply with Act.**      **41.** Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

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<sup>1</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of office" were repealed by the Indian Oaths Act, 1873 (18 of 1873).

42. No proceeding for anything done under this Act, or for any <sup>Limitation</sup> failure to comply with its provisions, shall be commenced or <sup>of suits.</sup> prosecuted <sup>1\*</sup> \* \* \* \* \* after tender of sufficient amends.

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FIRST SCHEDULE.

[ENACTMENTS REPEALED.]

*Rep. Act XII of 1873.*

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<sup>2</sup>SECOND SCHEDULE.

*Form of Inquisition.*

(See section 24.)

An inquisition taken at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 before E F, Coroner of \_\_\_\_\_ (in the case of A B, deceased) upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to enquire when, how and by what means the said A B came to his death.

We the said jurors, find unanimously that the death of the said A B was caused, on or about the \_\_\_\_\_ day of \_\_\_\_\_ 19 , by \_\_\_\_\_

- Cases of homicide .. a blow on the head with a stick inflicted on him by C D under such circumstances that the act of C D was justifiable (or accidental) homicide.  
 a stab on the heart with a knife inflicted on him by C D under such circumstances that the act of C D was culpable homicide not amounting to murder.
- Cases of suicide .. shooting himself through the head with a pistol. Drowning himself in a tank, river or sea. Opium-arsenic, which he voluntarily administered to himself. Cutting his throat with a razor or any sharp instrument.

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<sup>1</sup>The words "after the expiration of three months from such fact or failure nor" were repealed by the Indian Limitation Act, 1871 (9 of 1871).

<sup>2</sup>The Second Schedule was substituted for the original by section 5 of Bom. 13 of 1930.

3. Cases of infanticide. strangling to death a newly-born child by its mother.  
by exposure caused by C D with the knowledge that it would necessarily result in the death of A B, a newly-born child.
4. Cases of accident .. falling out of a boat into any river, whereby he was drowned.  
a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
5. Cases of poisoning .. opium or arsenic which was administered to the said A B by C D with the intention of killing him.
6. Cases of death while working in a mill or a workshop being caused by ma- caught in moving machinery.  
chinery.
7. Cases of death the wheel of a motor car or a heavy cart which arising out of was negligently driven by C D passing over the use of a his chest and causing death.  
vehicle.
8. Cases of death from disease of the heart.  
any other cause. apoplexy.  
sunstroke or any other disease.

And so say the jurors upon their oath aforesaid.

Witness our hands.

*E F, Coroner of*

*G H, I J, K L, M N, O P (jurors).*

**THE BOMBAY REVENUE JURISDICTION ACT, 1876.**

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ACT No. X OF 1876.<sup>1</sup>

[28th March 1876.]

Repealed in part by Act 4 of 1894 ;

Repealed in part by Act 16 of 1895.

Repealed in part and amended by Act 15 of 1880 ;

Repealed in part and amended by Act 12 of 1891.

Amended by Act 16 of 1877.

Amended by Bom. 21 of 1929.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the Land-revenue, and for other purposes.

WHEREAS in certain parts of the Presidency of Bombay the jurisdiction of the Civil Courts in matters connected with the land-revenue is more extensive than it is in the rest of the said Presidency ;

and whereas it is expedient that the jurisdiction of all the Civil Courts in the said Presidency should be limited in manner hereinafter appearing ;

and whereas it is also expedient to amend the<sup>2</sup> Bombay Civil Courts Act, section 32, and to revive certain provisions of the<sup>3</sup> thirteenth section of Regulation XVII of 1827 of the Bombay Code, which was repealed by the Land Improvement Act, 1871 \* \* \* \* \* ;

It is hereby enacted as follows :—

1. This Act may be called the Bombay Revenue Jurisdiction Act, Short title. 1876.

So much of section 4 as relates to claims to set aside, on the ground of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue, shall come into force on such<sup>5</sup> day as the Governor General in Council directs in that behalf by notification in the *Gazette of India*. The rest of this Act shall come into force on the passing thereof ;

and it shall extend to all the territories<sup>6</sup> \* \* \* \* \* under the government of the Governor of Bombay in Council, but not so as to effect—

<sup>1</sup>For Statement of Objects and Reasons, see *Gazette of India*, 1873, Pt. V, p. 534, for Preliminary Report of the Select Committee, see *ibid*, 1874, Pt. V, p. 70 ; for further Report of the Select Committee, see *ibid*, 1875, Pt. V, p. 210 ; and for Proceedings in Council, see *ibid*, 1875, Supplement, p. 4, and *ibid*, 1876, Supplement, pp. 344 and 405.

<sup>2</sup>*Supra*.

<sup>3</sup>S. 17 of this Act which revised s. 13 of Bom. Reg. 17 of 1827 was repealed by Act 15 of 1880, except in scheduled districts, i.e., the villages belonging to the following Mehwasli Chiefs :—(1) The Parvi of Kathi ; (2) The Parvi of Nal ; (3) The Parvi of Singpur ; (4) The Walvi of Gachalli ; (5) The Wassawa of Chikhli ; (6) The Parvi of Nawalpur to which the Bombay Land Revenue Code, 1879 (Bom. 5 of 1879), has not been extended : see s. 2 of Act 15 of 1880.

<sup>4</sup>The words " and to provide for the recovery by the Local Government of advances made for purposes other than those specified in section three of the Land Improvement Act, 1871," were repealed by the Repealing and Amending Act, 1894 (4 of 1894).

<sup>5</sup>The 19th September, 1881—see notification No. 197, dated 18th March, 1881, in *Gazette of India*, 1881, Pt. I, p. 92.

<sup>6</sup>The words " for the time being " were omitted by the Adaptation of Indian Laws Order in Council.

(a) any suit regarding the assessment of revenue on land situate in the collectorate of Bombay, or the collection of such revenue ;

(b) any of the provisions of Bombay Acts V of 1862 and VI of 1862, or of <sup>1</sup>[Act <sup>2</sup>XXI of 1881] or of <sup>3</sup>Act XXIII of 1871 ;

4\* \* \* \* \*

2. [Repeal of enactments] *Rep. Act XII of 1891.*

Interpreta-  
tion-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

“land” includes the sites of villages, towns and cities : it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights-of-way, ferries, fisheries and all other benefits to arise out of land, and things attached to the earth or permanently fastened to things attached to the earth :

“land-revenue” means all sums and payments, in money or in kind, received or claimable by or on behalf <sup>5</sup>[of the Crown] from any person on account of any land held by or vested in him, and any cess or rate authorized <sup>6</sup>[by the Provincial Government] under the provisions of any law for the time being in force :

“Revenue-officer” means any officer employed in or about the business of the land-revenue, or of the surveys, assessment, accounts or records connected therewith.

Bar of  
certain suits.

4. Subject to the exceptions hereinafter appearing, no Civil Court shall exercise jurisdiction as to any of the following matters :

(a) <sup>7</sup>[Claims against the Crown] relating to any property appertaining to the office of any hereditary officer appointed or recognised under <sup>8</sup>Bombay Act No. III of 1874 or any other law for the time being in force, or of any other village-officer or servant, or

claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service, or

suits to set aside or avoid any order under the same Act or any other law relating to the same subject for the time being in force passed <sup>6</sup>[by the Provincial Government] or any officer duly authorized in that behalf, or

<sup>1</sup> This reference was substituted for the words and figures “Act XV of 1871” by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>2</sup> The Broach and Kaira Incumbered Estates Act, 1881.

<sup>3</sup> The Pensions Act, 1871.

<sup>4</sup> Cl. (c) was repealed by the Repealing and Amending Act, 1895 (16 of 1895). It was as follows :—

“(c) any suit instituted before the passing of this Act.”

<sup>5</sup> The words “of the Crown” were substituted for the words “of Government” by the Adaptation of Indian Laws Order in Council.

<sup>6</sup> The words “by the Provincial Government” were substituted for the words “by Government” by *ibid.*

<sup>7</sup> The words “claims against the Crown” were substituted for the words “claims against Government” by *ibid.*

<sup>8</sup> The Bombay Hereditary Offices Act, 1874.

<sup>1</sup>[claims against the Crown] relating to lands held under treaty, or to lands granted or held as saranjam, or on other political tenure, or to lands declared <sup>2</sup>[by the Provincial Government] or any officer duly authorized in that behalf to be held for service ;

(b) objections—

to the amount or incidence of any assessment of land-revenue authorized <sup>2</sup>[by the Provincial Government], or

to the mode of assessment, or to the principle on which such assessment is fixed, or

to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement ;

(c) claims connected with or arising out of any proceedings for the realization of land-revenue or the rendering of assistance <sup>2</sup>[by the Provincial Government] or any officer duly authorized in that behalf to superior holders or occupants for the recovery of their dues from inferior holders or tenants ;

claims to set aside, on account of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue ;

(d) <sup>1</sup>[claims against the Crown]—

(1) to be entered in the revenue-survey or settlement-records or village-papers as liable for the land-revenue, or as superior holder, inferior holder, occupant or tenant, or

(2) to have any entry made in any record of a revenue-survey or settlement, or

(3) to have any such entry either omitted or amended ;

(e) the distribution of land or allotment of land-revenue on partition of any estate under <sup>3</sup>Bombay Act IV of 1868 or any other law for the time being in force ;

(f) <sup>1</sup>[claims against the Crown]—

to hold land wholly or partially free from payment of land-revenue or to receive payments charged on or payable out of the land-revenue, or to set aside any cess or rate authorized <sup>2</sup>[by the Provincial Government] under the provisions of any law for the time being in force, or

respecting the occupation of waste or vacant land belonging <sup>4</sup>[to the Crown] ;

<sup>1</sup>The words "claims against the Crown" were substituted for the words "claims against Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "by the Provincial Government" were substituted for the words "by Government" by *ibid.*

<sup>3</sup>Bom. 4 of 1868, Bom. 1 of 1865 (except ss. 37 and 38), and Bom. Reg. 17 of 1827 are repealed by the Bombay Land-revenue Code, 1879 (Bom. V of 1879), in areas in which the latter Act is in force. Ss. 37 and 38 of Bom. 1 of 1865 are repealed so far as they apply to any village in the Ratnagiri or the Kolaba District to which the Khoti Settlement Act, 1880 (Bom. 1 of 1880), extends or is extended.

<sup>4</sup>The words "to the Crown" were substituted for the words "to Government" by the Adaptation of Indian Laws Order in Council.



(g) claims regarding boundaries fixed under <sup>1</sup>Bombay Act No. I of 1865, or any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary-marks :

**Proviso.**

Provided that, if any person claim to hold wholly or partially exempt from payment of land-revenue under—

(h) any enactment for the time being in force expressly creating an exemption not before existing in favour of an individual or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record, or of its having existed for a specified term of years, or

(i) an instrument or sanad given by or by order of the <sup>2</sup>[Provincial Government] under Bombay Act No. II of 1863, section 1, clause first, or Bombay Act No. VII of 1863, section 2, clause first, or

(j) any other written grant by the British Government expressly creating or confirming such exemption, or,

(k) a judgment by a Court of law, or an adjudication duly passed by a competent officer under <sup>1</sup>Bombay Regulation XVII of 1827, Chapter X, or under <sup>3</sup>Act No. XI of 1852, which declares the particular property in dispute to be exempt,

such claim shall be cognizable in the Civil Courts.

*Illustrations to (h).*

(1) It is enacted that, in the event of the proprietary right in lands, the property of Government, being transferred to individuals, they shall be permitted to hold the lands for ever at the assessment at which they are transferred. The proprietary right in certain lands is transferred to A at an assessment of Rs. 100. An exemption from higher assessment not before existing is expressly created in favour of A by enactment, and he may seek relief in the Civil Court against over-assessment.

(2) It is enacted that, when a specific limit to assessment has been established and preserved, the assessment shall not exceed such specific limit. A is the owner of land worth Rs. 100 for assessment. He claims to be assessed at Rs. 50 only on the strength of a course of dealing with him and his predecessors under which his land has not been more highly assessed. There is no exemption not before existing created by enactment, and A's claim is not cognizable in a Civil Court.

(3) It is enacted that land-revenue shall not be leviable from any land held and entered in the land-registers as exempt. A claims to hold certain land as exempt on the ground that it has been so held by him, and is so entered in the land-register. This is an exemption expressly confirmed by enactment on the ground of its being shown in a public record, and A's claim is cognizable in a Civil Court.

<sup>1</sup>Bom. 4 of 1868, Bom. 1 of 1865 (except Ss. 37 and 38), and Bom. Reg. 17 of 1827 are repealed by the Bombay Land-revenue Code, 1879 (Bom. V of 1879), in areas in which the latter Act is in force. Ss. 37 and 38 of Bom. I of 1865 are repealed so far as they apply to any village in the Ratnagiri or the Kolaba District to which the Khoti Settlement Act, 1880 (Bom. 1 of 1880), extends or is extended.

<sup>2</sup>The words "Provincial Government" were substituted for the words "Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup>Bombay Rent-free Estates Act, 1852.

(4) It is enacted that the Collector shall confirm existing exemptions of all lands shown in certain maps to be exempt. A claims exemption, alleging that his land is shown in the maps to be exempt. A's claim is cognizable in a Civil Court.

(5) It is enacted that assessment shall be fixed with reference to certain considerations and not with reference to others. This is not an enactment creating an exemption in favour of any individual or class, and no objection to an assessment under such an enactment is cognizable in a Civil Court.

5. Nothing in section 4 shall be held to prevent the Civil Courts from entertaining the following suits : Saving of certain suits.

(a) suits <sup>1</sup>[against the Crown] to contest the amount claimed, or paid under protest, or recovered, as land-revenue, on the ground that such amount is in excess of the amount authorized in that behalf <sup>2</sup>[by the Provincial Government] or that such amount had, previous to such claim, payment or recovery, been satisfied, in whole or in part, or that the plaintiff, or the person whom he represents, is not the person liable for such amount ;

(b) suits between private parties for the purpose of establishing any private right, although it may be affected by any entry in any record of revenue-survey or settlement or in any village-papers ;

(c) suits between superior holders or occupants and inferior holders or tenants regarding the dues claimed or recovered from the latter ;

and nothing in section 4, clause (g), shall be held to prevent the Civil Courts from entertaining suits, other than suits <sup>1</sup>[against the Crown] for possession of any land being a whole survey-number or a recognized share of a survey-number ;

<sup>3</sup>[and nothing in section 4 shall be held to prevent the Civil Courts in the districts mentioned in the Second Schedule hereto annexed from exercising such jurisdiction as, according to the terms of any law in force on the twenty-eighth day of March, 1876, they could have exercised over claims <sup>1</sup>[against the Crown]—

(a) relating to any property appertaining to the office of any hereditary officer appointed or recognized under <sup>4</sup>Bombay Act No. III of 1874 or any other law for the time being in force, or of any other village-officer or servant ;

(b) to hold land wholly or partially free from payment of land-revenue :

<sup>1</sup> The words " against the Crown " were substituted for the words " against Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " by the Provincial Government " were substituted for the words " by Government " by *ibid.*

<sup>3</sup> This paragraph was added by the Bombay Revenue Jurisdiction (Amendment) Act, 1877 (16 of 1877).

<sup>4</sup> The Bombay Hereditary Offices Act.

(c) to receive payments charged on, or payable out of, the land-revenue.]

Bar of certain suits against Revenue-officers.

6. Revenue-officers shall not be liable to be sued for damages in any Civil Court for any act *bona fide* done or ordered to be done by them as such in pursuance of the provisions of any law for the time being in force.

If any Revenue-officer absconds or does not attend when called on by his official superior, and if the Collector of the district proceeds against him or his sureties for public money, papers or property according to the provisions of any law for the time being in force, such Collector shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

Punishment or prosecution of Revenue-officers no bar to civil remedies.

7. Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue-officer for any offence or breach of duty, or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such officer.

8 to 10. [*Suits against Revenue-officers ; appeals from their proceedings ; power for Local Government to call for record.*] *Rep. Act XV of 1880.*

Suits not to be entertained unless plaintiff has exhausted right of appeal.

11. No Civil Court shall entertain any suit <sup>1</sup>[against the Crown] on account of any act or omission of any Revenue-officer unless the plaintiff first proves that, previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present.

Power of Provincial Government to refer questions for decision of High Court.

12. If, in the trial or investigation of any suit, claim or objection which, but for the passing of this Act, might have been tried or investigated by a Civil Court, there arises any question on which <sup>2</sup>\* \* \* the <sup>3</sup>[Provincial Government] desires to have the decision of the High Court, <sup>2</sup>\* \* \* the <sup>3</sup>[Provincial Government] <sup>4</sup>\* \* \* may cause a statement of the question to be prepared, and may refer such question for the decision of the High Court of Judicature at Bombay.

The said High Court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the court-house.

The parties to the case may appear and be heard in the High Court in person or by their advocates or pleaders.

<sup>1</sup> The words " against the Crown " were substituted for the words " against Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " the Governor General in Council or " were omitted by *ibid.*

<sup>3</sup> The words " Provincial Government " were substituted for the words " Local Government " by *ibid.*

<sup>4</sup> The words " as the case may be " were omitted by *ibid.*

The High Court, when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and, subject to any appeal which may be presented to Her Majesty in Council, the case shall be disposed of conformably to such decision.

If the High Court considers that any such statement is imperfectly framed, the High Court may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the High Court in each case directs.

13. If in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

The High Court may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the High Court on any such reference shall be subject to appeal to Her Majesty in Council, and, save as aforesaid, shall be final.

14. Every reference under section 12 or section 13 shall be heard by a Bench consisting of such number of Judges, not less than three, as the Chief Justice from time to time directs.

15. For section 32 of the Bombay Civil Courts Act, No. XIV of 1869, the following shall be substituted (namely):—

[*Supra.* ]

16. Whenever any suit is brought in any Court of a subordinate judge of the first class [against the Crown or the Federal Railway Authority,] or against any Revenue Officer, [and the Crown or the Federal Railway Authority undertakes] the defence thereof, it shall be lawful [for the Provincial Government], by certificate signed by a Secretary thereto, to require that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in the Court of the first class subordinate judge, or, if the suit is transferred, in the Court of the District Judge; and the Court shall give effect to every such requirement.

The privilege conferred [on the Provincial Government] by this section shall, *mutatis mutandis*, apply to any appeal or special appeal against any decree in any such suit as is described in this section.

<sup>1</sup> S. 16 was substituted for the original by section 2 of Bom. 21 of 1929.

<sup>2</sup> The words "against the Crown or the Federal Railway Authority" were substituted for the words "against Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "and the Crown or the Federal Railway Authority undertakes" were substituted for the words "and the Government undertakes" by *ibid.*

<sup>4</sup> The words "for the Provincial Government" were substituted for the words "for the Government" by *ibid.*

<sup>5</sup> The words "on the Provincial Government" were substituted for the words "on Government" by *ibid.*

17. [First clause. Revival of section 13 of Bom. Reg. XVII of 1827.] Repealed by Act XV of 1880 ; but the repeal does not operate in any scheduled district unless and until the Bombay Land-revenue Code (Bom. V of 1879) has been extended to such district.

[Second clause. Operation of Bom. Reg. XVII of 1827 in sites of villages and towns.] Rep. Act XV of 1880.

[Third clause. Recovery of certain advances made by Local Government.] Rep. Act XV of 1880.

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### SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by Act XII of 1891.

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### THE SECOND SCHEDULE.

The district of Ahmedabad.

The district of Kaira, exclusive of the Panch Mahals.

The district of Broach.

The district of Surat, exclusive of the lapsed State of Mandvi, as described in the Schedule annexed to <sup>2</sup>Act X of 1848.

The district of Tanna.

The district of Kolaba, exclusive of the lapsed State of Kolaba mentioned in <sup>2</sup>Act VIII of 1853.

The district of Ratnagiri.

The district of Kanara.]

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<sup>1</sup> This Schedule was added by the Bombay Revenue Jurisdiction (Amendment) Act, 1877 (16 of 1877). It is referred to in s. 5, *supra*.

<sup>2</sup> Acts 10 of 1848 and 8 of 1853 were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

**THE BOMBAY MUNICIPAL DEBENTURES ACT, 1876.**

**CONTENTS.**

**PREAMBLE.**

**SECTIONS.**

1. Short title.
2. Transfers of debentures to be by endorsement.
3. Validation of former transfers by endorsement.
4. Power to consolidate debentures.
5. Power to renew and sub-divide.

**THE SCHEDULE.**

ACT No. XV OF 1876.<sup>1</sup>

[THE BOMBAY MUNICIPAL DEBENTURES ACT, 1876.]

[14th September 1876.]

Repealed in part, by Act 1 of 1879.

An Act to amend the law relating to the transfer of Bombay Municipal Debentures, and to provide for their consolidation.

Bom. II of 1865. WHEREAS, under the <sup>2</sup>Bombay Municipal Act of 1865, the Justices of the Peace for the City of Bombay were empowered to mortgage for the purposes therein mentioned the rates and taxes imposed and levied under that Act ; Preamble.

and whereas, by section 255 of the same Act, it was enacted that any person entitled to any such mortgage might transfer his right and interest therein to any other person, and that every such transfer should be by deed duly stamped, wherein the consideration should be truly stated, and that every such transfer might be according to the form in Schedule K to the said Act annexed or to the like effect ;

and whereas, in exercise of the said power, diverse mortgages of the said rates and taxes have been made, and the mortgagees have purported to transfer their mortgages to other persons, but such transfers have been by simple endorsement and not by deed duly stamped ;

and whereas it is expedient to provide that such transfers may hereafter be made by endorsement, and to confirm the said transfers heretofore made, and to exempt the parties thereto from the penalties which they have incurred by reason of their failure to comply with the provisions of the said section and of the law relating to stamp-duties for the time being in force ;

and whereas it is also expedient to provide for consolidating such mortgages in manner hereinafter mentioned and for renewing and sub-dividing mortgages so consolidated ;

It is hereby enacted as follows :

1. This Act may be called the Bombay Municipal Debentures Act, Short title.  
1876.

Bom. II of 1865. 2. Every mortgage of rates and taxes, authorised to be made under the said <sup>2</sup>Bombay Municipal Act of 1865, or any subsequent Act, shall be transferable by endorsement on the instrument of mortgage<sup>3</sup> \* \* \* \* Transfers of debentures to be by endorsement.

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1876, Pt. V, p. 552, and for Proceedings in Council, see *ibid.*, Supplement, pp. 714, 753 and 1003.

<sup>2</sup>See now the City of Bombay Municipal Act, 1888 (Bom. 3 of 1888).

<sup>3</sup>The words "and no such endorsement shall be chargeable with any stamp-duty" were repealed by the Indian Stamp Act, 1879 (1 of 1879).

Validation of  
former  
transfers by  
endorsement.

3. Every transfer of any such mortgage heretofore made by endorsement shall be, and be deemed to have been, as valid as if this Act had been in force at the date of such transfer; and no stamp-duty shall be, or be deemed to have been, chargeable in respect of any such transfer; and no penalty shall be deemed to have been incurred by reason of any failure to comply with the provisions of the said section 255 or of the law relating to stamp-duties for the time being in force.

Power to  
consolidate  
debentures.

4. Any holder of two or more such instruments of mortgage may surrender them to the Municipal Corporation of the City of Bombay, and such Corporation shall accept the same, and shall (on receipt for each such instrument of such fee as the said Corporation may from time to time prescribe) grant to such holder, under the seal of the said Corporation, an instrument of mortgage in which the consideration stated shall be the aggregate amount of the considerations respectively stated in the instrument so surrendered.

Every instrument so granted may be in the form in the Schedule hereto annexed or to the like effect.

Power to  
renew and  
sub-divide.

5. The said Corporation shall, on the application of the holder of any instrument granted under the said <sup>1</sup>Bombay Municipal Act of 1865 Bom. II of 1865. or under this Act, and, on receipt of such fees as the said Corporation may from time to time prescribe in this behalf, renew or sub-divide the same.

#### THE SCHEDULE ABOVE REFERRED TO.

WHEREAS *A B* of . has surrendered to us, the Municipal Corporation of the City of Bombay, mortgages issued under the Bombay Municipal Act of 1865, bearing respectively the following Bom. II of 1865. numbers and dates (namely) [*set them out*], and securing sums amounting in the whole to Rs. . In consideration of the premises, we, the said Corporation, do hereby grant and assign unto the said *A B*, his representatives and assigns, such proportion of the rates and taxes comprised in the said mortgages as the said sum of Rs. bears to the whole sum for the time being borrowed upon the credit of the said rates and taxes. TO HOLD to the said *A B*, his representatives and assigns, from this day, until the said sum of Rs. with interest at the rate of per cent. per annum, shall be fully paid and satisfied.

Given under our corporate seal this                      day of                      187 .

<sup>1</sup>See now the City of Bombay Municipal Act, 1888 (Bom. 3 of 1888).



**THE BHAUNAGER ACT, 1876.**

## CONTENTS.

## PREAMBLE.

## SECTIONS.

1. Short title.  
Local extent.  
Commencement.
2. Scheduled villages excluded from jurisdiction of Bombay Courts.
3. [*Repealed*].
4. Saving of personal jurisdiction of Courts of British India.

## SCHEDULE.

ACT No. XX OF 1876.<sup>1</sup>

[THE BHAUNAGER ACT, 1876.]

[16th December, 1876.]

Repealed in part, by Act 16 of 1895.

An Act to give better effect to certain agreements with the Thakur of Bhaunagar.

WHEREAS the villages mentioned in the Schedule hereto annexed Preamble. (hereinafter called the scheduled villages) are the property of the Thakur of Bhaunagar, and were by the Treaty of Bassein, dated the thirty-first day of December, 1802, separated from the Native State or States known as the territory of Kathiawad and ceded to the British Government ;

and whereas, by <sup>2</sup>Regulation VI of 1816 of the Governor of Bombay in Council, the Regulations in force throughout the Presidency of Bombay were extended to the said villages, and such villages thereby became subject to the jurisdiction of the Revenue, Civil and Criminal Courts established in that Presidency ;

and whereas the said Thakur of Bhaunagar is also the proprietor of divers villages, forming part of the said territory, and hereinafter called the Kathiawad villages ;

and whereas the British Government have exercised certain powers of government over the said territory, but such territory has never been treated as being British territory, nor as having been vested in the East India Company, nor in Her Majesty the Queen of Great Britain and Ireland and Empress of India, and the said Kathiawad villages have consequently never been subject to the laws in force in the Presidency of Bombay ;

and whereas in the year 1820 the British Government established a Political Agency for the said territory of Kathiawad ;

and whereas in the year 1857 the said Thakur was, by an order of the British Government, invested in respect of the same villages with certain powers of sovereignty limited by and subject to the rules laid down for the government and conduct of the said Kathiawad Political Agency ;

and whereas, for divers reasons of State affecting the welfare of British India, the British Government became desirous of ceding to the Thakur of Bhaunagar the scheduled villages, to be held by him on the same

<sup>1</sup>For Proceedings in Council relating to the Bill which was introduced and passed at the same meeting of the Council, see Gazette of India, 1876, Supplement, p. 1351.

<sup>2</sup>Bom. Reg. 6 of 1816 was repealed by Bom. Reg. 1 of 1827.

conditions as those on which he holds the Kathiawad villages, and for that purpose certain agreements were made and certain notifications published which were intended to operate as a cession of the scheduled villages;

and whereas on the twenty-ninth day of January, 1866, the Governor of Bombay in Council published a notification declaring that, in accordance with the agreement last hereinbefore recited, the scheduled villages were from and after the first day of February, 1866, removed from the jurisdiction of the Revenue, Civil and Criminal Courts of the Bombay Presidency and transferred to the supervision of the said Political Agency in Kathiawad on the same conditions as to jurisdiction as the said Kathiawad villages;

and whereas the intention of the said agreements and notifications was that the villages comprised therein should be ceded to and vested in the Thakur of Bhaunagar, to be held by him on the terms on which he holds the Kathiawad villages;

and whereas ever since the first day of February, 1866, the scheduled villages have been governed according to the intentions of the said agreements, and acts of executive authority have been done, proceedings taken and decrees and sentences passed by the Thakur of Bhaunagar and his officers, and by the officers of the said Political Agency, and by the Courts of Justice appointed to exercise jurisdiction within the limits of the said Political Agency;

and whereas it now appears that such agreements and notifications were not worded so as to express their true intention, and that the scheduled villages did not thereby cease to be British territory, or to be subject to the laws in force in the Presidency of Bombay;

and whereas by a notification dated the fifth day of December, 1876, after reciting to the effect above recited and reciting that the Secretary of State for India had, on behalf of Her Majesty the Queen of Great Britain and Empress of India, given his sanction to the cession intended to be thereby effected, the Governor General in Council, with the sanction aforesaid, did thereby cede and grant to the said Thakur of Bhaunagar, his heirs and successors, the said scheduled villages, to hold the same unto the said Thakur, his heirs and successors, on the terms and subject to the rules on and subject to which he holds the said Kathiawad villages; but it was thereby provided that in case the said Thakur, his heirs or successors, should commit any acts of misgovernment which, in the opinion of the Governor General in Council, rendered it inexpedient that the said Thakur, his heirs and successors, should continue to hold the said scheduled villages, the Governor General in Council might resume the villages thereby ceded and re-annex the same to Her Majesty's dominions;

and whereas it is expedient (so far as relates to any past or future proceedings in British India) to ratify the aforesaid acts, proceedings and sentences of the Thakur of Bhaunagar and the officers and Courts

aforesaid, and to indemnify the said Thakur and officers against any liability in respect thereof, and to provide that no title to property shall be disturbed by any act, proceeding or sentence of any other authority ;

It is hereby enacted as follows :—

1. This Act may be called the Bhaunager Act, 1876.

Short title.

It extends only to British India ; and

Local extent.

it shall come into force at once.

Commencement.

2. The said scheduled villages shall be deemed to have been, on and after the said first day of February, 1866, excluded from the jurisdiction of the Revenue, Civil and Criminal Courts of the Bombay Presidency.

Scheduled villages excluded from jurisdiction of Bombay Courts.

3. [Validation of acts done after 1st February, 1866.] *Rep. Act XVI of 1895.*

4. Nothing in this Act shall affect any jurisdiction which any Court of Justice in British India may for the time being be entitled to exercise over persons resident or being beyond the limits of British India.

Saving of personal jurisdiction of Courts of British India.

#### SCHEDULE.

##### *Bhaunagar Taluqa.*

Bhaunagar.	Malanka.	Hathab.	
Wadwa.	Bhutesar.	Khadsuliu.	
Ruha.	Bhumli.	Bhadbadiu.	
Akwara.	Ratanpur Juna.	Alapur.	
Adhiwara.	Ratanpur Nuwa.	Thalsar.	
Tarsamia.	Koliak.	Lakhanka.	
Jaspara.	Kobri.	Sultanpur.	
Phulsar.	Bhuri.	Wavri.	
Karmadiu.	Bhundariu.	Rampura.	
Surka.	Churi.	Bhenswari.	} (waste).
Tarak Palri.	Sankraŝar.	Jhanjra.	
Nari.	Bhadole.		
Budhel.	Nagdhaniba.		

##### *Sihor Taluqa.*

Sihor.	Tana.	Ratanpur near Tana.
Ustral.	Bordi.	Wadiu.
Agiali.	Kajawadar.	Walawad.

SCHEDULE—*contd.**Sihor Taluqa—contd.*

Megwadar.	Khakhriu.	Kuchotiu ( <i>waste</i> ).
Ghangli.	Kardej.	Chirora ( <i>waste</i> ).
Nesra.	Surka.	
Rajpura.	Jambalu.	

*New Villages.*

Gundi.	Bapara.	Deogana.
Mandwa.	Panchpipla.	Thordi.
Sosia.	Rajpura.	Khadarpur Miti-
Paniali.	Pithalpur.	verdi.
Trapaj.	Khantari.	

*Inam Villages.*

Wartej.	Phariadku.	Kalvi ( <i>waste</i> ).
Sidhsar.	Sodwadra.	
Sampura.	Sedhawadar.	

## DHANDUKA PARGANA.

*Patna Taluqa.*

Patna.	Ratanwau.	Kariani.
Bharbir.	Keria.	Lathidhar.
Chakampur.	Jamrala.	Welawadar.
Sarwui.	Ujalwau.	Virdhi or Rajghar.
Jhinhawadar.	Jotingra.	Sajeli.
Pati.	Shirthali.	Oteria.
Keria near Pati.	Dhikwali.	Sandhera.
Bhambhan.	Wajeli.	Nagalpur.
Samandeala, 2.	Lundra.	Malpur.
Tajpur.	Dantretia.	
Kanutalao.	Sāmandiala.	

## RANPUR PARGANA.

*Botad Taluqa.*

Botad.	Dankniā.	Kaniad.
Hardar.	Khankoi.	Rajpura.
Sirwaniu.	Turkha.	Juria.

**THE BROACH AND KAIRA INCUMBERED ESTATES ACT, 1877.**

CONTENTS.

PREAMBLE. Repealed.

SECTIONS.

1 to 38. Repealed.

39. Amendment of Bombay Act VI of 1862.

40. Taluqdari Settlement-officer to be—  
deemed officer under Bombay Act VI of 1862, section 1 ;  
assistant to certain Collectors.

41. Acts of Taluqdari Settlement-officer valid.

ACT No. XIV OF 1877.<sup>1</sup>

[THE BROACH AND KAIRA INCUMBERED ESTATES ACT, 1877.]

[28th June, 1877.]

Repealed in part, by Act 4 of 1894.

Repealed in part and amended, by Act 21 of 1881.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to relieve from incumbrances the estates of Thakurs in Broach and Kaira.

*Preamble. Rep. Act XXI of 1881.*

1 to 33. [*Application and preliminary inquiry ; Order of management ; Proof of debts ; Scheme for liquidation ; Proceedings subsequent to sanction of liquidation scheme ; Appeal and revision ; Miscellaneous.*] *Rep. Act XXI of 1881.*

39. <sup>2</sup>\*Whereas doubts have been raised as to the validity of Bombay Amendment Act No. VI of 1862 (*for the amelioration of the condition of taluqdars in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay ;

for the purpose of precluding such doubts, it is hereby <sup>2</sup>\* enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

XXI of 1881. 40. <sup>3</sup>[The Taluqdari Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act, 1881, section 7,] for the time being shall, unless the <sup>4</sup>[Provincial Government] in any case otherwise directs, be—

(a) deemed to be an officer appointed under section 1 of the said Bombay Act No. VI of 1862 to manage all estates with respect to which a declaration is or has been made and published under the said section ;

(b) an assistant to the respective Collectors of Ahmedabad, Kaira and Broach.

41. Nothing heretofore done by any Taluqdari Settlement-officer shall be deemed to be or to have been invalid by reason only of his not having been duly appointed,—

(a) under section 1 of the said Bombay Act No. VI of 1862 to manage any estates with respect to which a declaration has been made under the said section, or

(b) to be a manager under <sup>5</sup> \* <sup>6</sup> Act No. XV of 1871, or

(c) to be an assistant to the respective Collectors of Ahmedabad, Kaira and Broach.

<sup>1</sup>For Statement of Objects and Reasons see Gazette of India, 1877, Pt. V, p. 16, and for Proceedings in Council, see *ibid*, Supplement, pp. 87, 126 and 1863.

The short title was given by Bom. 2 of 1921.

<sup>2</sup>The words "and" in paragraph 1 and "further" in the second paragraph were repealed by the Repealing and Amending Act, 1894 (4 of 1894).

<sup>3</sup>These words and figures were substituted for the words "The said Taluqdari Settlement-officer" by a. 2 of the Broach and Kaira Incumbered Estates Act, 1881 (21 of 1881).

<sup>4</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>5</sup>The words "the said" were repealed by the Repealing and Amending Act, 1894 (4 of 1894).

<sup>6</sup>Act 15 of 1871 was repealed by a. 2 of this Act.

**THE TRANSPORT OF SALT ACT, 1879.****CONTENTS.****PREAMBLE.****SECTIONS.**

1. Short title.  
Local extent.
- 1A. Definition.
2. Penalties for carrying salt in certain vessels.
3. Exceptions.
4. Power of stoppage, search and arrest.
5. Penalties for resisting officer.
6. Confiscation of vessel and cargo.
7. Jurisdiction.
8. Power to exempt from operation of Act.



ACT No. XVI OF 1879.<sup>1</sup>

[THE TRANSPORT OF SALT ACT, 1879.]

[30th September 1879.]

Repealed in part, by Act 11 of 1901 ;

Amended by Act 12 of 1891 ;

Do. do. 4 of 1914 ;

Do. do. 22 of 1925 ;

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to restrict the transport of Salt by Sea

WHEREAS it is expedient to restrict the transport of salt by sea in Preamble.  
manner hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Transport of Salt Act, 1879 : Short title.

It extends to the western coast of British India north of Cochin, and Local extent.  
to the sea within a distance of a marine league from such coast ;

\* \* \* \* \*

3<sup>1</sup>A. The " Central Board of Revenue " means the Central Board of Definition.  
Revenue constituted under the Central Board of Revenue Act, 1924.

2. When any salt is carried by sea in any vessel other than a vessel Penalties for  
of the burden of three hundred tons and upwards, the owner and master carrying salt  
of such vessel shall each be punished with fine which may extend to one in certain  
thousand rupees, or with imprisonment for a term which may extend to vessels.  
six months, or with both.

3. Nothing in section 2 applies to— Exceptions.

Mad. IV  
of 1889.  
Bomb. II  
of 1890.

(a) salt covered by a permit granted under <sup>4</sup>[Chapter V of the Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for the time being in force<sup>5</sup> \* \* \*];

(b) salt covered by a pass granted by any officer whom the <sup>6</sup>[Central Board of Revenue] may appoint in this behalf ;

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1877, Pt. V, p. 16 ; for First Report of the Select Committee, see *ibid*, p. 94a ; and for Proceedings in Council, see *ibid*, Supplement, pp. 88, 126, 493, and *ibid*, 1879, p. 1223.

<sup>2</sup>The words " and it shall come into force at once " were repealed by the Repealing and Amending Act, 1901 (11 of 1901), s. 3, and Third Schedule.

<sup>3</sup>Section 1A was inserted by clause 1 of Part I of the Schedule to Act 22 of 1925.

<sup>4</sup>These words were substituted for the words " section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council, No. 7 of 1873, or by a *rawana* granted under Madras Regulation 1 of 1805, section 11, clause third", by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>5</sup>The words " in the territories administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council, as the case may be " were omitted by the Adaptation of Indian Laws Order in Council.

<sup>6</sup>The words " Central Board of Revenue " were substituted for the words " Governor of Bombay in Council " by clause 2 of Pt. I of the Schedule to Act 22 of 1925.

(c) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the <sup>1</sup>[Central Board of Revenue] may, from time to time, exempt from the operation of section 2.

Power of  
stoppage,  
search and  
arrest.

. 4. When any officer empowered by the <sup>2</sup>[Chief Customs authority] whether by name or office, to act under this section has reason to believe, from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section 2, he may require such vessel to be brought to, and thereupon may—

(a) enter and search the same ;

(b) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof ;

(c) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India ; and

(d) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section 2.

Penalties for  
resisting  
officer.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section 4,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Confiscation  
of vessel and  
cargo.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section 2, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged by the Chief Customs authority, or by such other officer as the <sup>3</sup>[Central Government] may, from time to time, appoint in this behalf.

Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such

<sup>1</sup>The words "Central Board of Revenue" were substituted for the words "Governor of Bombay in Council" by clause 2 of Pt. I of the Schedule to Act 22 of 1925.

<sup>2</sup>These words were substituted for the words "Governor of Bombay in Council" by Schedule Pt. I of the Decentralization Act, 1914 (4 of 1914).

<sup>3</sup>The words "Central Government" were substituted for the words "Governor General in Council" by the Adaptation of Indian Laws Order in Council.

enquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated, or impose a fine in lieu thereof not exceeding the value of the article.

7. For the purpose of the adjudication of penalties under section 2 or section 5, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section 4 or section 5, he may be brought. Jurisdiction.

8. The <sup>1</sup>[Central Government] may from time to time, by notification in the <sup>2</sup>[Official Gazette] exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and by like notification, again subject such carriage to the operation of this Act. Power to exempt from operation of Act.

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<sup>1</sup>The words "Central Government" were substituted for the words "Governor General in Council" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words "Official Gazette" were substituted for the words "Gazette of India" by *ibid.*

## THE DEKKHAN AGRICULTURISTS' RELIEF ACT, 1879.

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ACT No. XVII OF 1879.<sup>1</sup>

[THE DEKCHAN AGRICULTURISTS' RELIEF ACT, 1879.]

[29th October 1879.]

Repealed in part, by Act 12 of 1891;

" " " 16 of 1895;

Repealed in part and amended, by Act 23 of 1881;

" " " " 22 of 1882;

" " " " 23 of 1886;

" " " " 6 of 1895;

" " " " 38 of 1920;

Bom. 1 of 1912;

Amended by Bom. Act 1 of 1902;

" " " 2 of 1907;

" " " 1 of 1910;

" " " 7 of 1927;

" " " 14 of 1932;

" " " 5 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

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<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1879, Pt. V, p. 796; for Report of the Select Committee, see *ibid*, p. 939; for Proceedings in Council relating to the Bill it was originally proposed to introduce, see *ibid*, 1878, Supplement, p. 1028; and for Proceedings relating to the Bill which included the provisions of both this Bill and the Bill which the Local Council had introduced, see *ibid*, 1879, Supplement, pp. 595, 833, 873 and 1327.

**An Act for the relief of Indebted Agriculturists in certain parts  
of the Dekkhan.**

**Preamble.** WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows:—

**CHAPTER I.**

**PRELIMINARY.**

**Short title.** 1. This Act may be cited as the 'Dekkhan Agriculturists' Relief Act, 1879; and it shall come into force on the first day of November, 1879.

**Local extent.** <sup>2</sup>[This section and] sections 11, 56, 60 and 62 extend to the whole of British India. The rest of this Act extends only to the districts of Poona, Satara, Sholapur and Ahmednagar, <sup>3</sup>[but may, from time to time, be extended wholly or in part by the <sup>4</sup>[Provincial Government],  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \* to any other district or districts in the Presidency of Bombay,] <sup>6</sup>[or to any part or parts of any other such district or districts].

**Construction.** <sup>7</sup>[2. In construing this Act, unless there is something repugnant in the subject or context, the following rules shall be observed, namely:—

*1st.*—"Agriculturist" shall be taken to mean a person who by himself or by his servants or by his tenants earns his livelihood wholly or principally by agriculture carried on within the limits of a district or part of a district to which this Act may for the time being extend, or who ordinarily engages personally in agricultural labour within those limits.

<sup>1</sup> Acts 17 of 1879, 23 of 1881 and 22 of 1882 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1882—see s. 1 (1) of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882). The Acts of 1879 to 1882 and Act 23 of 1886 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886—see s. 1 (1) of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886). The Acts of 1879 to 1886 and Act 6 of 1895 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1895 see s. 1 (1) of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895). The Acts of 1879 to 1895 and Bom. 1 of 1902 may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1876 to 1902—see s. 1 (1) of the Dekkhan Agriculturists' Relief Act, 1902 (Bom. 1 of 1902).

<sup>2</sup> These words were inserted by s. 3 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881), and are to be deemed to have always been inserted.

<sup>3</sup> These words were added by s. 3 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>4</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>5</sup> The words "with the previous sanction of the Governor General in Council" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>6</sup> These words were added by s. 4 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>7</sup> This section was substituted by s. 5, *ibid.*

The original section was as follows:—

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

(1) 'money' includes agricultural produce, implements and stock:

(2) 'agriculturist' means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts; and every agriculturist shall be deemed to 'reside' where he so earns his livelihood."

*Explanations.*—(a) An agriculturist who, without any intention of changing his status as such, temporarily ceases to earn his livelihood by agriculture or to engage personally in agricultural labour as aforesaid, or who is prevented from so earning his livelihood or engaging in agriculture by age or bodily infirmity or by necessary absence in the military service of Her Majesty, does not thereby cease to be an agriculturist within this definition.

(b) An assignee of Government assessment or a mortgagee is not as such an agriculturist within this definition.

2nd.—In Chapters II, III, IV and VI, and in section 69, the term “agriculturist”, when used with reference to any suit or proceeding, shall include a person who, when any part of the liability which forms the subject of that suit or proceeding was incurred, was an agriculturist within the meaning of that word as then defined by law.

3rd.—An agriculturist shall be deemed to reside where he earns his livelihood by agriculture or personally engages in agricultural labour as aforesaid.

4th.—“Money” shall be deemed to include agricultural produce, implements and stock.

5th.—“Lease” shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease.

6th.—“Standing crops” shall include crops of all sorts attached to the soil, and leaves, flowers, and fruits upon, and juice in, trees and shrubs.]

7th.—For the purposes of Chapters VIII and VIII-A an instrument or a copy of an instrument drawn up on a printed form by or under the superintendence of a village-registrar or of a sub-registrar shall be deemed to be an instrument or copy written or made by or under the superintendence of such registrar or sub-registrar. In this clause the term “printed form” shall be deemed to include a form prepared by any mechanical copying press.]

<sup>2</sup>[2A. Every Jagirdar and other authority invested with powers under Jagirdars, etc., to be deemed Subordinate Judges.  
<sup>3</sup>Bombay Regulation XIII of 1830 and <sup>4</sup>Act XV of 1840 shall, for the purposes of this Act, be deemed to be a Subordinate Judge of such class as the <sup>4</sup>[Provincial Government] may from time to time direct.]

<sup>1</sup>Clause seventh was added by the Bombay Repealing and Amending Act, 1910 (Bom. I of 1910).

<sup>2</sup>Section 2A was inserted by s. 4 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>3</sup>*Supra.*

<sup>4</sup>The words “Provincial Government” were substituted for the words “Local Government” by the Adaptation of Indian Laws Order in Council.

## CHAPTER II.

## OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

Application  
of this  
Chapter.

3. The provisions of this Chapter shall apply to—

(a) suits for an account,<sup>1</sup> [whatever be the amount or value of the subject-matter thereof,] instituted <sup>2\*</sup> \* \* \* \* \* by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned <sup>3\*</sup> \* \* \*

(1) when such suits are heard by Subordinate Judges of the First Class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the Second Class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (b) are the following, namely:—

(w) suits for the recovery of money alleged to be due to the plaintiff— on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or on an account stated between the plaintiff and defendant, or on a written or unwritten engagement for the payment of money not hereinbefore provided for ;

(x) suits for recovery of money due on contracts other than the above and suits for rent or for moveable property, or for the value of such property, or for damages ; and

(y) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure <sup>4</sup>[and] sale, when the defendant, or any one of the defendants, <sup>5\*</sup> \* \* \* \* \* is an agriculturist ; and

(z) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

<sup>1</sup>These words were inserted by s. 5 of Act 22 of 1882.

<sup>2</sup>The words and figures " on or after the first day of November, 1879," were repealed by First Schedule of the Repealing and Amending Act, 1895 (16 of 1895).

<sup>3</sup>The words " and instituted on or after the same date " were repealed by Act 16 of 1895.

<sup>4</sup>The word " and " was substituted for " or " by s. 5 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>5</sup>The words " not being merely a surety for the principal debtor " were repealed by the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have ordinary jurisdiction in the same local area, every suit referred to in section 3, clause (b), and instituted in such local area, shall, if the amount or value of the subject-matter of such suits exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

Certain suits to be instituted in Courts of first class Subordinate Judges.

XIV of 1869. 5. Notwithstanding anything contained in the Act, 1869, section 28, no Subordinate Judge shall be invested with the jurisdiction of a Judge of a Court of Small Causes \* \* \* \* \*

Subordinate Judges not to act as Judges of Small Cause Courts.

6. The [Provincial Government] may, from time to time, by notification in the [Official Gazette], direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of Act XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature), shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

Jurisdiction of Subordinate Judge and Small Cause Court.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

Summons to be for final disposal of suit.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do.

Court to examine defendant as witness.

[*Explanation.*—The compulsory examination of the defendant shall not be dispensed with merely by reason of the fact that the defendant has filed a written statement.]

8. [Written statements.] *Rep. Act VI of 1895, s. 3.*

9. [Record of evidence.] *Rep. Act VI of 1895, s. 3.*

10. No appeal shall lie from any decree or order passed in any suit to which this Chapter applies.

No appeal to lie.

<sup>1</sup>*Supra.*

<sup>2</sup>The words "and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November, 1879, to have been withdrawn" were repealed by First Schedule of the Repealing and Amending Act, 1895 (16 of 1895).

<sup>3</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup>The words "Official Gazette" were substituted for the words "local Gazette" by *ibid.*

<sup>5</sup>See now s. 16 of the Provincial Small Cause Courts Act, 1887 (9 of 1887).

<sup>6</sup>The word "clearly" was added by s. 6 of the Dekhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>7</sup>This *Explanation* was inserted by *ibid.*

## CHAPTER III.

## OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

Power of Court to determine nature of transactions and to admit evidence of an oral agreement or statement.

<sup>1</sup>[10A. Whenever it is alleged at any stage of any suit or proceeding to which an agriculturist is a party that any transaction in issue entered into by such agriculturist or the person, if any, through whom he claims was a transaction of such a nature that the rights and liabilities of the parties thereunder are triable wholly or in part under this Chapter, the Court shall, notwithstanding anything contained in section 92 of the Indian Evidence Act, 1872, <sup>2</sup>[or in section 49 of the Indian Registration Act, 1908] or in any other law for the time being in force, have power <sup>I of 1872.</sup> to inquire into and determine the real nature of such transaction and decide such suit or proceeding in accordance with such determination and shall be at liberty, notwithstanding anything contained in any law as aforesaid, to admit evidence of any oral agreement or statement <sup>3</sup>[or unregistered document] with a view to such determination and decision :

Provided that such agriculturist or the person, if any, through whom he claims was an agriculturist at the time of such transaction :

Provided further that nothing in this section shall be deemed to apply to any suit to which a *bona fide* transferee for value without notice of the real nature of such transaction or his representative is a party where such transferee or representative holds under a registered deed executed more than twelve years before the institution of such suit.

*Illustrations.*

(a) A landlord sues for possession of land leased by him\* to an agriculturist. The defendant alleges that he mortgaged the land with possession to the lessor who is entitled to its possession only as such mortgagee and not as owner, and asks that he may be allowed to redeem the mortgage without being ejected. The Court may admit evidence on this allegation, and, if satisfied that it is correct, may decline to eject the defendant as tenant, and allow the suit to be converted into one for redemption of the mortgaged property.

(b) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a lease, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

<sup>1</sup>Section 10A was inserted by s. 2 of the Dekhan Agriculturists' Relief (Amendment) Act, 1907 (Bom. 2 of 1907).

<sup>2</sup>These words and figures were inserted by s. 2 (i) of Bom. 5 of 1935.

<sup>3</sup>These words were inserted by s. 2 (ii), *ibid.*

(c) A money-lender sues to enforce a sale-deed entered into by any agriculturist. It is alleged that there was a contemporaneous oral agreement that the transaction should be deemed to be a mortgage. The Court may admit evidence of such oral agreement, and if satisfied of the existence of the agreement may decline to enforce the deed as a sale-deed.

(d) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a sale. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a sale, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.]

11. Every suit of the description mentioned in section 3, clause (w), Agriculturists to be sued where they reside. may if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides, and not elsewhere.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides, and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

12. In any suit of the description mentioned in section 3, clause (w), History of transactions with agriculturist-debtors to be investigated. in which the defendant or any one of the defendants <sup>1\*</sup> is an agriculturist,

and in any suit of the descriptions mentioned in section 3, clause (y) or clause (z),

<sup>2</sup>[the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall inquire] into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim, out of which the suit has arisen, first with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and, secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to inquire, but may do so if it thinks fit.

<sup>1</sup>The words "not being merely a surety of the principal debtor" were repealed by the Dekhan Agriculturists' Relief Act, 1881 (23 of 1881).

<sup>2</sup>These words were substituted for the words "the Court shall, if the amount of the creditor's claim is disputed, inquire" by Act 23 of 1886, s. 6.

In other cases in which the amount of the claim is admitted, the Court shall be bound to inquire as aforesaid.

Section 9, clause first, of <sup>1</sup>Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

Mode of  
taking  
account.

13. When the Court inquires into the history and merits of a case under section 12, it shall—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting-off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken :

(b) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor, as part of the transactions :

<sup>2</sup>(c) in the account of principal there shall not be debited to the debtor any sum in excess of a sum due or to accrue due under a decree which the debtor may have agreed directly or indirectly to pay in pursuance of any agreement relating to the satisfaction of the said decree:

(d) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable :

(e) in the account of interest there shall be debited to the debtor, monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided :

<sup>1</sup>*Supra.*

<sup>2</sup>Clause (c) was substituted for the original clause by s. 2 of Bom. 14 of 1932.

The original clause was as follows :—

(c) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure.



(f) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion, or with the aid of arbitrators appointed by it may determine), shall be credited first in the account of interest ; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(g) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceed that appearing due on the principal-account, in which case double the latter balance shall be deemed to be the amount then due.

<sup>1</sup>13A. Where the mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor, and the Court is unable to determine what profits have been actually received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 13 :

In certain cases rent may be charged in lieu of profits.

Provided that, if it be proved that in any year there was an entire or serious failure of the crops, an abatement of the whole or part of such rent may be allowed for the year.

14. [*Interest to be allowed.*] *Rep. Act VI of 1895, s. 3.*

15. [*Reference to arbitration in certain cases.*] *Rep. Act VI of 1895, s. 3.*

<sup>2</sup>[15A. In a suit of the description mentioned in section 3, clause (z), the Court shall not refuse to pass a decree for redemption merely on the ground that the time fixed for the payment of the principal of the mortgage-money has not arrived, or on the ground that the mortgage-debt has not been completely discharged, or on both.]

Mortgagor entitled to decree for redemption though time fixed by mortgage has not arrived or debt has not been paid.

<sup>3</sup>[15AA. So far as it may be consistent with the provisions of this Act every decree for redemption or foreclosure of any mortgage, and every decree or order for the sale of any mortgaged property made at the instance of a mortgagee thereof, shall name such future day, not being less than six months after the date of such decree, as the Court may think reasonable for the payment by the mortgagor of the money payable under the decree, and no such foreclosure shall be made absolute nor shall any such sale take place before the day so named.]

Power of Court to name some future date for payment by the mortgagor.

<sup>1</sup>Section 13A was inserted by s. 7 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>2</sup>Sections 15A, 15B, 15C and 15D were inserted by s. 6 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>3</sup>Section 15AA was inserted by s. 8 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

Power to order payment by instalments in case of decree for redemption, foreclosure or sale.

<sup>1</sup>[15B. (1) The Court may in its discretion, in passing a decree for redemption, foreclosure or sale in any suit of the descriptions mentioned in section 3, clause (y) or clause (z), or in the course of any proceedings under a decree for redemption, foreclosure or sale passed in any such suit, whether before or after this Act comes into force, direct that any amount payable by the mortgagor under that decree shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and, where the mortgagee is in possession, as to the appropriation of the profits and accounting therefor, as it thinks fit.

(2) If a sum payable under any such direction is not paid when due, the Court shall, except for reasons to be recorded by it in writing, instead of making an order for the sale of the entire property mortgaged or for foreclosure, order the sale of such portion only of the property as it may think necessary for the realisation of that sum.]

Power to continue the mortgagee in possession.

<sup>2</sup>(3) In passing a decree for redemption or foreclosure in any such suit as aforesaid, the Court may direct that the amount payable by the mortgagor shall be discharged by continuing the mortgagee in possession for such further period as will enable him to recover his principal with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

<sup>2</sup>(4) When the amount payable to a mortgagee in possession has been determined in any such suit as aforesaid, the Court may, in its discretion, instead of making an order for payment thereof, direct that the mortgagee be continued in possession for such period (to be specified by the Court) as will, in the opinion of the Court, be sufficient to enable him to recover from the profits the amount payable by the mortgagor together with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.]

Power to order payment by instalments in suits for possession of mortgaged property.

<sup>1</sup>[15C. (1) The Court may, if it thinks fit, in any suit for the possession of mortgaged property under section 3, clause (y), instead of passing a decree for possession of that property, pass a decree directing that the amount payable by the mortgagor shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and as to the appropriation of the profits and accounting therefor, as it thinks fit.

(2) If a sum payable under any such direction is not paid when due, the Court may, if it thinks fit, instead of making any other order which it is empowered to make for the realisation of that sum, make an order directing that the mortgagee be put in possession of the whole or any portion of the property mortgaged.]

Mortgagor may sue for account.

<sup>1</sup>[15D. (1) Any agriculturist whose property is mortgaged may sue for an account of the amount of principal and interest remaining unpaid on the mortgage and for a decree declaring that amount.

(2) When any such suit is brought, the amount (if any) remaining unpaid shall be determined under the same rules as would be applicable under this Act if the mortgagee had sued for the recovery of the debt.

<sup>1</sup>Sections 15A, 15B, 15C and 15D were inserted by s. 6 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>2</sup>Sub-sections (3) and (4) of section 15B were inserted by s. 9, *ibid.*

(3) At any time before the decree in the suit is signed, the plaintiff may apply to the Court to pass a decree for the redemption of the mortgage, or the mortgagee, if he would then have been entitled to sue for foreclosure or sale, may apply to the Court to pass a decree for foreclosure or sale (as the case may be), instead of a decree merely declaring the amount remaining unpaid, and the Court may, if it thinks fit, grant the application.

(4) The provisions of section 15B shall apply to any decree passed under sub-section (3).]

16. Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor, or due by him to the creditor as the price of goods sold, or on a written or unwritten engagement for the payment of money, and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor. Agriculturist debtors may sue for accounts.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had sued him for recovery of the debt. Amount of debts in such cases to be determined according to foregoing provisions.

17. A decree passed under section 16 may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into Court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained a decree, in a suit to recover the debt. Decree under section 16 may provide for payment by instalments. Execution of decrees under this section.

18. The plaintiff in any suit instituted under section 16 may at any stage of such suit deposit in Court such sum of money as he considers a satisfaction in full of the defendant's claim against him. Payment into Court in cases under section 16.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

19. [Power to discharge judgment-debtor. Power to direct institution of insolvency proceedings.] *Rep. Act VI of 1895, s. 3.*

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist, or the portion of the same which it directs under section 19 to be paid, shall be paid by instalments with or without interest. Power to fix instalments in execution.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money <sup>1</sup>[passed whether before or after this Act comes into force]. Arrest and imprisonment in execution of decree for money,

<sup>1</sup> These words were added by s. 8 of the Dekkhan Agriculturists' Relief Act, 1882 abolished. (22 of 1882).

Immoveable property exempted from attachment and sale unless specifically pledged.

22. <sup>1</sup>[Immoveable property belonging to an agriculturist <sup>2</sup>\* \* \* shall not be attached or sold] in execution of any decree or order <sup>3</sup>[passed whether before or after this Act comes into force], unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists. <sup>4</sup>[For the purposes of any such attachment or sale as aforesaid, standing crops shall be deemed to be moveable property.]

But the Court, <sup>5</sup>[on application or of its own motion], may, when passing a decree against an agriculturist or <sup>6</sup>[in the course of any proceedings under a decree against an agriculturist passed whether before or after this Act comes into force], direct the Collector to take possession, for any period, not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decree-holder in manner provided by section 29.

The provisions of section 31 shall, *mutatis mutandis*, apply to any property so dealt with.

Power of Collector to set aside sale.

<sup>7</sup>[22A. (1) When any immoveable property belonging to an agriculturist has been sold by public auction under the provisions of section 325 of the <sup>8</sup>Code of Civil Procedure, the sale may within thirty days from the XIV date of the auction be set aside by the Collector, if he considers the price 1882. bid by the purchaser to be inadequate.

(2) When the sale is so set aside the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be, and the Collector may re-sell the property by public auction or private contract, as he thinks fit. Every such re-sale shall be deemed to be a sale under the provisions of section 325 of the <sup>8</sup>Code of Civil Procedure.] XIV

Chapter not to apply to Village-munsifs' Courts.

23. No provision of this Chapter shall apply to the proceedings in 1882. the Courts of Village-munsifs unless such provision has been specially extended thereto under the power hereinafter conferred.

<sup>1</sup> These words were substituted for the words "No agriculturist's immoveable property shall be attached or sold" by s. 7 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>2</sup> The words "other than his standing crops" were repealed by s. 10 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>3</sup> These words were inserted by s. 9 (1) of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>4</sup> These words were inserted by s. 10 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>5</sup> These words were inserted by s. 9 (2) of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>6</sup> These words were substituted for the words "or at any subsequent time" by s. 9 (3) *ibid*.

<sup>7</sup> S. 22A was inserted by s. 3 of the Dekkhan Agriculturists' Relief (Amendment) Act, 1907 (Bom. 2 of 1907).

<sup>8</sup> For the Code of Civil Procedure, see now Act 5 of 1908.

## CHAPTER IV.

## OF INSOLVENCY.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the <sup>2</sup>Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the <sup>2</sup>Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section 19; and, except as provided in Chapter VII of this Act, no such application or proceeding shall be dealt with by any other Court.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

26. Notwithstanding anything contained in section 351 of the <sup>2</sup>Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said <sup>2</sup>Code or section 25 of this Act.

27. No person other than the nazir of the Court shall be appointed as receiver, and no receiver shall be entitled to commission.

28. In determining under section 352 of the said <sup>2</sup>Code the amount of any claim of the nature referred to in section 12 of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections 12 to 15 of this Act, both inclusive.

29. No immoveable property of the insolvent shall vest in the receiver; but the Court, <sup>3</sup>[on application or of its own motion,] may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the receiver has been appointed, any immoveable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the <sup>4</sup>[Provincial Government] may from time to time make in this behalf, to manage the same for the benefit of the creditors by letting it on lease or otherwise:

<sup>1</sup> The Provincial Insolvency Act, 1920 (5 of 1920), does not apply to cases to which this Chapter is applicable; see s. 82 of that Act.

<sup>2</sup> For the Code of Civil Procedure, see now Act 5 of 1908.

<sup>3</sup> These words were inserted by s. 10 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>4</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Provided that, if the insolvent or his representative in interest at any time pays into Court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government except the powers mentioned in the Bombay Land-revenue Code, 1879, section 150, clauses (b), (d) and (e).

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1879.

Nothing in this section shall authorise the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

secured  
Sdebts.

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immoveable property, the Court, [on application or of its own motion], may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the <sup>2</sup>Code of Civil Procedure.

Where property is let under this section the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale-proceeds shall be applied, first, to the payment of the debt, and the balance, if any, shall be paid to the receiver.

Insolvent  
incompetent  
to sell, etc.,  
property  
dealt with  
under  
sections  
29 and 30.

Scheduled  
debts  
discharged.

31. So long as any management under section 29 or letting under section 30 continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let, or any part thereof.

32. When the balance available for distribution among the scheduled creditors under section 356 of the said <sup>2</sup>Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section 29, or let by him under section 30.

<sup>1</sup> These words were inserted by s. 10 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>2</sup> For the Code of Civil Procedure, see now Act 5 of 1908.

33. No appeal shall lie from any order passed under this Chapter Appeals except orders passed in exercise of the power conferred by section 359 barred. of the <sup>1</sup>Code of Civil Procedure.

## CHAPTER V.

### OF VILLAGE-MUNSIFS.

34. The <sup>2</sup>[Provincial Government] may, from time to time, appoint Appointment of Village-munsifs. any pàtel of a village or any other person possessing local influence in a village to be a Village-munsif for such village or for such village and for any other villages the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

35. Every Village-munsif so appointed shall take cognisance of suits Suits triable by them. of the description mentioned in section 3, <sup>3</sup>[clauses (w) and (x)], when the subject-matter thereof does not exceed <sup>4</sup>[twenty-five] rupees in amount or value, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-munsif is appointed.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-munsif shall not be heard by any other Court : Jurisdiction of other Courts excluded. Proviso.

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-munsif to his own Court or any other Civil Court in the district for trial :

Provided also that no Village-munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

36. The District Judge may, on a petition being presented within thirty days from the date of any decree or order of a Village-munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-munsif <sup>5</sup>[or on the ground that the Village-munsif has exercised a jurisdiction not vested in him by law] and pass such other decree or order as he thinks fit. District Judge's power of revision.

<sup>1</sup> For the Code of Civil Procedure, see now Act 5 of 1908.

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words, letters and brackets "clauses (w) and (x)" were substituted for the word, letter and brackets "clause (w)" by a. 2 of Bom. 7 of 1927.

<sup>4</sup> The word "twenty-five" was substituted for the word "ten" by *ibid.*

<sup>5</sup> These words were added by s. 11 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

Except as provided in this Act and in section 622 of the <sup>1</sup>Code of Civil Procedure, every decree and order of a Village-munsif shall be final.

Power of Provincial Government to make rules.

37. The <sup>2</sup>[Provincial Government] may, from time to time, by notification in the Official Gazette, make rules consistent with this Act for regulating the procedure of Village-munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

## CHAPTER VI.<sup>3</sup>

### OF CONCILIATION.

Appointment of Conciliators.

38. The <sup>2</sup>[Provincial Government] may, from time to time, appoint any person other than an officer of Police to be a Conciliator, and may cancel any such appointment.

Every Conciliator appointed under this section shall be appointed only for a term not exceeding three years, but may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the <sup>2</sup>[Provincial Government] may, from time to time, prescribe.

<sup>4</sup>[The expression " officer of Police " in this section shall not be deemed to include a Police patel appointed under Bombay Act No. VIII of 1867 (*for the Regulation of the Village-police in the Presidency of Bombay*).]

Matters which may be brought before Conciliator.

39. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties one of whom is an agriculturist residing within any local area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force, is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them.

<sup>1</sup> For the Code of Civil Procedure, see now Act 5 of 1908.

<sup>2</sup> The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The appointments of Conciliators have been cancelled by G. N., J. D., No. 3478, dated the 10th May 1913 (*vide E. G. C., Pt. I, p. 752*).

<sup>4</sup> This paragraph was added by s. 7 of the Dekkan Agriculturists' Relief Act, 1881 (23 of 1881).



40. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a concise statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place.

Procedure thereupon.

If such person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

Day for attendance may from time to time be postponed.

<sup>1</sup>[A Conciliator empowered by the <sup>2</sup>[Provincial Government] in this behalf may instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.]

<sup>1</sup>If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code.]

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41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

When all parties appear, Conciliator to endeavour to reconcile them.

42. The Conciliator shall hear but shall not record the statement of any witness, and shall peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to affect any third person, shall provide for such oath being duly taken in the presence of all the parties.

Conciliator to hear statements of witnesses, etc.

43. If on the day on which the case is first heard by the Conciliator, or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

Any agreement arrived at to be reduced to writing.

*Explanation.*—A Conciliator may be appointed arbitrator under this section.

<sup>1</sup> These paragraphs were added by s. 8 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Procedure when agreement finally disposes of case and in other circumstances.

144. [(1) When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides, and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the date of such delivery, why such agreement ought not to be filed in such Court.

(2) The Court which receives the agreement shall in all cases scrutinise the same, and if it thinks that the agreement is a legal and equitable one finally disposing of the matter, and that it has not been made in fraud of the stamp or registration laws, it shall, after the expiry of the said period of one month, unless cause has been shown as aforesaid, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

(3) If the said Court thinks that the agreement is not a legal or equitable one, or that it does not finally dispose of the matter, or that it has been made in fraud of the stamp or registration laws, it shall of its own motion issue process for the attendance of the parties, and if after such inquiry as may be deemed necessary the Court finds that such agreement is a legal and equitable one finally disposing of the matter, and that it has not been made in fraud of the stamp or registration laws, it shall order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed, and from which no appeal lies.

(4) If, on the other hand, the said Court finds that the agreement does not constitute a legal or equitable agreement, or that it does not finally dispose of the matter, or that it has been made in fraud of the stamp or registration laws, it shall return the said agreement to the Conciliator, and such Conciliator shall thereupon be bound to furnish on demand to the parties or any one of them a certificate under section 46.

(5) The Court may in any case, for reasons to be recorded by it in writing, from time to time extend the period of one month allowed for showing cause under this section.]

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<sup>1</sup> This section was substituted for section 44 by s. 12 of the *Dekkhan Agriculturists' Relief Act, 1895* (6 of 1895).

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the <sup>1</sup>Code of Civil Procedure. Procedure where agreement is for reference to arbitration.

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect. Certificate to be given to applicant if conciliation fails.

47. No suit, and no application for execution of a decree passed before the date on which this Act comes into force, to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party, shall be entertained by any Civil Court unless the plaintiff produces <sup>2</sup>[a certificate in reference thereto obtained by him under section 46 within the year immediately preceding]. Suit, or application for execution, not to be entertained, by Civil Court unless such certificate is produced.

<sup>3</sup>[*Explanation.*—The expression “Civil Court” in this section does not include a Mámlatdár’s Court under Bombay Act No. III of 1876 <sup>4</sup>(to consolidate and amend the law relating to the powers and procedure of Mámlatdár’s Courts).]

<sup>5</sup>[48. In computing the period of limitation prescribed for any such suit or application the time intervening between the application made by the plaintiff under section 39 and the grant of the certificate under section 46 shall be excluded.] Allowance to be made in period of limitation.

6\* \* \* \* \*

<sup>7</sup>48A. [*Repealed.*]

<sup>1</sup> For the Code of Civil Procedure, see now Act 5 of 1908.

<sup>2</sup> These words were substituted for the words “such certificate as aforesaid in reference thereto” by s. 13 of the Dekhan Agriculturists’ Relief Act, 1882 (22 of 1882).

<sup>3</sup> This *Explanation* was added by s. 9 of the Dekhan Agriculturists’ Relief Act, 1881 (23 of 1881).

<sup>4</sup> This reference to Bombay Act No. III of 1876 should now be read as applying to Bombay Act No. II of 1906.

<sup>5</sup> This section was substituted for section 48 by s. 10 of the Dekhan Agriculturists’ Relief Act, 1881 (23 of 1881).

<sup>6</sup> The second paragraph was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>7</sup> Section 48A, which was inserted by Bom. 1 of 1910, was repealed by Bom. 1 of 1912, s. 3.

Provincial  
Government  
to make  
rules.

49. The <sup>1</sup>[Provincial Government] may from time to time make rules—

(a) regulating the procedure before Conciliators in matters not provided for by this Act ;

(b) fixing the charges to be made by Conciliators for anything done by them under this Chapter ; and

(c) determining what record and accounts shall be kept by Conciliators, and what returns shall be framed and furnished by them.

## CHAPTER VII.

### SUPERINTENDENCE AND REVISION.

District  
Judge to  
inspect, etc.

50. The District Judge shall inspect, supervise and control the proceedings, under <sup>2</sup>[Chapter II, Chapter IV and Chapter VI] of this Act, of all Subordinate Judges and the proceedings of all Village-munsifs and Conciliators.

District  
Judge may  
withdraw  
case from  
Conciliator  
or Subordi-  
nate Judge.

<sup>3</sup>51. [The District Judge may—

(a) transfer any application pending before a Conciliator to the file of any other Conciliator ;

(b)<sup>4</sup> [transfer from the Court of one Subordinate Judge to another any suit or any agreement pending before a Subordinate Judge under section 44 of this Act ; or] transfer to his own file any suit or other matter pending before the Court of any Subordinate Judge under <sup>2</sup>[Chapter II, Chapter IV or Chapter VI] of this Act, and may dispose of the same as if he were a Subordinate Judge ; or

<sup>1</sup> The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> These words and figures were substituted in ss. 50 and 51 for the words and figures " Chapter II and Chapter IV " by s. 14 of the Dekkhan Agriculturists' Relief Act, 1892 (22 of 1892).

<sup>3</sup> This section was substituted for section 51 by s. 11 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

<sup>4</sup> These words were inserted by s. 13 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

(c) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

or sit with Subordinate Judge as a Bench for trial of any case.

If the members of any Bench sitting under this section differ in opinion the opinion of the District Judge shall prevail.]

152. [(1) The <sup>2</sup>[Provincial Government] may appoint an Assistant or Subordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges under Chapter II, Chapter IV and Chapter VI of this Act, and of all Village-munsifs and Conciliators in any district or part of a district to which this Act applies :

Appointment of Assistant or Subordinate Judges to aid District Judge.

Provided that, if the <sup>2</sup>[Provincial Government] thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts or parts of districts or districts and parts of districts.

(2) The District Judge may, by order, confer upon any Assistant or Subordinate Judge appointed under this section, as regards any district or part of a district for which he is so appointed, all or any of the powers specified in the order which vest in the District Judge under section 51.]

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under <sup>3</sup>[Chapter II, Chapter IV or Chapter VI] of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit ;

Of revision.

and any Assistant Judge or Subordinate Judge appointed by the <sup>2</sup>[Provincial Government] under section 52 may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge, and the District Judge may pass such decree or order on the case as he thinks fit :

Provided that no decree or order shall be reversed or altered for any error or defect or otherwise, unless a failure of justice appears to have taken place.

<sup>1</sup> This section was substituted for section 52 by s. 14 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> These words and figures were substituted for the words and figures "Chapter II or Chapter IV" by s. 14 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

Special  
Judge.

54. The <sup>1</sup>[Provincial Government] from time to time may <sup>2\*</sup> \* \* \* \* \* appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act in respect of the proceedings of all Subordinate Judges, Village-munsifs and Conciliators and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the <sup>1</sup>[Provincial Government], discharge any public function except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this Chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section 52, or by a Bench, in any suit or proceeding under this Act.

<sup>3</sup>[But the District Judge or Special Judge, or any Assistant or Subordinate Judge or Bench, may refer to the High Court, under section 617 of the <sup>4</sup>Code of Civil Procedure, any question of law, or usage having the force of law, or the construction of a document, arising in any case pending before him or it under this Chapter as if that case were a suit or an appeal pending before him or, it; and, in respect of every reference so made, sections 618 to 621 of the said Code, both inclusive, shall apply:]

<sup>3</sup>[Provided that no reference shall be made under this section by any Assistant or Subordinate Judge, or by any Bench of which the District Judge or Special Judge is not a member, without the previous sanction of the District Judge or Special Judge, as the case may be.]

## CHAPTER VIII.<sup>5</sup>

### REGISTRATION BY VILLAGE-REGISTRARS.

55. The <sup>1</sup>[Provincial Government] may from time to time,—

Appointment,  
of Village-  
registrars.

(a) appoint such persons as it thinks fit, whether public officers or not, to be Village-registrars for such local areas as it may, from time to time, prescribe;

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "and if the Government of India so direct shall" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (38 of 1920).

<sup>3</sup> These paragraphs were added by s. 15 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>4</sup> For the Code of Civil Procedure, see now Act 5 of 1908.

<sup>5</sup> As the Village-registrars have now been abolished (*Vide* G. R., R. D., No. 9669, dated 23rd February 1910) the chapter on "Registration by Village-registrars" has been rendered inoperative since the special procedure laid down in this chapter applies only in an area for which a Village-registrar has been appointed (s. 56). However, as provided by s. 63-A of the Act the procedure laid down in ss. 57 and 59 of this chapter still applies to registration by Sub-Registrars appointed under the Indian Registration Act, 1908.

(b) direct the Village-registrar for any local area to discharge the functions of a Village-registrar for any other local areas concurrently with the village-registrars of such other local areas; and

(c) delegate to any person, by name or in virtue of his office, the powers conferred on it by this section;

and may cancel any such appointment, direction or delegation.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer, unless such instrument is written by, or under the superintendence of, and is attested by, a Village-registrar :

Instruments executed by agriculturist not to be deemed valid unless executed before a Village-registrar.

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding, <sup>1</sup>[or apply to any instrument which is executed by an agriculturist merely as a surety,] <sup>2</sup>[or to any instrument required by section 17 of the <sup>3</sup>Indian Registration Act, 1877, to be registered under that Act].

III of 1877.

57. [When any persons intend to execute any instrument to which section 56 applies, all such persons shall appear before the Village-registrar appointed for the area in which the agriculturist, or, when there are several agriculturists intending to execute the instrument, any one of such agriculturists, resides, and such registrar, after satisfying himself in such manner as he deems fit as to the identity of the intending executants and receiving the fee (if any) prescribed by the <sup>5</sup>Provincial Government] in this behalf, and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence; and, after reading the same aloud, or causing it to be so read, in the hearing of the intending executants, shall require them to execute it in his presence.

Such instruments to be written by, or under the superintendence of, a Village-registrar and executed in his presence.

<sup>1</sup> These words were inserted by s. 12 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

<sup>2</sup> This portion was added by s. 9 of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>3</sup> See now Act 16 of 1908.

<sup>4</sup> This section was substituted for section 57 by s. 13 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

<sup>5</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Attestation  
of such  
instruments.

Every instrument so written and executed shall at the time of execution be attested by the Village-registrar, and also, if any of the executants thereof is unable to read such instrument, by two respectable witnesses.

For the purposes of this section every executant of any such instrument shall appear in person before the Village-registrar; but every other party thereto may appear either in person or by any agent, being his relative, servant or dependant, whom he has duly furnished with a power-of-attorney,<sup>1</sup>[executed and authenticated in such manner as the <sup>2</sup>[Provincial Government] may, from time to time, by rule prescribe,] authorising him to appear and act on his behalf.]

Registration  
of instru-  
ments by  
Village-  
registrars.

58. Every Village-registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration.

As soon as all the <sup>3</sup>[intending executants have executed any instrument] before a Village-registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same 4\* \* \* \*

Previous to delivery, the original instrument 5\* \* \* \* shall be endorsed under the Village-registrar's signature, with the date of registration, the name and residence of the Village-registrar, and the volume and page of the register in which the instrument has been registered.

<sup>6</sup>[A certified copy of any entry in the register shall be granted by the Village-registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument.]

Consideration  
to be fully  
stated in  
every  
instrument  
executed  
before a  
Village-  
registrar.

59. In every instrument written by, or under the superintendence of, the Village-registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

<sup>1</sup> These words were inserted by s. 16 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> These words were substituted for the words "parties to any instrument have executed it" by s. 14 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

<sup>4</sup> The words "and a certified copy thereof to the other party, or to each of the other parties if there be more than one" were repealed by s. 10 (1) of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>5</sup> The words "and each such copy" were repealed by s. 10 (2), *ibid.*

<sup>6</sup> This paragraph was added by, s. 10 (3) *ibid.*



If the instrument modifies, or wholly or partly supersedes, a previous instrument, such previous instrument shall be produced before the Village-registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-registrar under his hand for identification :

Previous instrument to be produced.

[Provided that, if it is alleged that any such previous instrument is on the record or otherwise in the custody of a Court, or is lost, or has been destroyed, the Village-registrar, after ascertaining that such previous instrument was duly registered, may permit a certified copy thereof to be produced in lieu of the original ; and in every such case the following procedure shall be observed, that is to say :

Production of copy of previous instrument when to be permitted.

(a) the contents of the certified copy shall be fully described in the modifying or superseding instrument, and the said copy shall be marked by the Village-registrar under his hand for identification, and shall then be delivered to the person who produced it ;

(b) if the previous instrument is lost, or has been destroyed, and the registered entry thereof is in his custody, the Village-registrar shall endorse on such entry a note under his hand as to the modification or supersession of the said instrument ;

(c) if the previous instrument is in the custody of a Court, or if it is lost, or has been destroyed, and the registered entry thereof is in the custody of another officer, the Village-registrar shall forward a certified copy of the entry in his register relating to the modifying or superseding instrument to such Court or officer, with a report explaining the circumstances, and such Court or officer shall on receipt thereof endorse on such previous instrument or registered entry a note as to the modification or supersession of the said instrument.]

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the <sup>2</sup>Indian Registration Act, 1877 ; and no instrument which ought to have been executed before a Village-registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

Registration under this Act to be deemed equivalent to registration under Indian Registration Act, 1877.

<sup>1</sup> This proviso was added by s. 3 of the Dekkhan Agriculturists' Relief Act, 1902 (Bom. I of 1902).

<sup>2</sup> See now Act 16 of 1908.

Superintend-  
ence of  
Village-  
registrars  
and custody  
and destruc-  
tion of their  
records.

161. [(1) The <sup>2</sup>Provincial Government] may appoint one or more officers to exercise by themselves or their subordinates a general superintendence over all Village-registrars, and may either make rules, or empower such officer or officers to make rules, from time to time, consistent with this Act, for regulating the proceedings of the Village-registrars and for providing for the custody of their records.

(2) The <sup>2</sup>Provincial Government] may, by order to be published in the <sup>3</sup>Official Gazette], declare that any documents other than wills remaining unclaimed in any registration office in any district or part of a district to which this Act applies, for a period exceeding two years, may be destroyed.]

Exemption  
of instru-  
ments to  
which the  
Crown or  
any officer  
of the  
Crown is a  
party.

62. Nothing in this Act shall be deemed to require any instrument, to which <sup>4</sup>[the Crown] or any officer <sup>5</sup>[of the Crown] in his official capacity is a party, to be executed before a Village-registrar <sup>6</sup>\* \* \* \*.

Power of  
Provincial  
Government  
to make  
rules.

63. The <sup>2</sup>Provincial Government] may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-registrars, and prescribing the fees to be levied by them.

## CHAPTER VIII A.

### REGISTRATION OF INSTRUMENTS REFERRED TO IN SECTION 17 OF THE INDIAN REGISTRATION ACT, 1877.

Mode of  
execution by  
agriculturists  
of instru-  
ments  
required to  
be

63A. (1) When an agriculturist intends to execute any instrument <sup>III of</sup> required by section 17 of the <sup>8</sup>Indian Registration Act, 1877, to be <sup>1877.</sup> registered under that Act, he shall appear before the Sub-registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-registrar, shall write the instrument, or cause it to be written and require it to be executed,

<sup>1</sup> This section was substituted for the original section 61 by s. 15 of the Dekhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>2</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup> The words "Official Gazette" were substituted for the words "Government Gazette" by *ibid.*

<sup>4</sup> The words "the Crown" were substituted for the words "the Government" by *ibid.*

<sup>5</sup> The words "of the Crown" were substituted for the words "of Government" by *ibid.*

<sup>6</sup> The words "or any Society registered under the Co-operative Credit Societies Act, 1904," which were inserted by Bombay Act 1 of 1910, have been repealed by Bombay Act 1 of 1912, s. 3.

<sup>7</sup> Ch. VIII A was inserted by s. 11 of the Dekhan Agriculturists' Relief Act, 1896 (23 of 1896).

<sup>8</sup> See now Act 16 of 1908.

and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act in accordance with the procedure prescribed for a Village-registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the <sup>1</sup>Indian Registration Act, 1877.

1877.

(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed and attested in the manner provided in that sub-section.<sup>2\*</sup> \* \* \*

## CHAPTER IX.

### OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment.

If such payment is made under any instrument executed before a Village-registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section 53.

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the <sup>3</sup>[Provincial Government] having regard to local custom may, from time to time, by notification in the official Gazette, fix, be entitled to receive, on demand, from the person claiming under such instrument, a statement up to that date of his account under such instrument.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book; and to require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section 64, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section 65.

<sup>1</sup> See now Act 16 of 1908.

<sup>2</sup> The words brackets and figures "sub-section (1) shall not apply to any instrument to which any Society registered under the Co-operative Credit Societies Act, 1904, is a party" which were inserted by Bom. 1 of 1910, have been repealed by Bom. 1 of 1912, s. 3.

<sup>3</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Penalty for  
contraven-  
tion of sec-  
tions 64 to  
66.

67. Any person who, in contravention of section 64, 65 or 66, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

## CHAPTER X.

### LEGAL PRACTITIONERS.

Pleaders,<sup>1</sup>  
etc., excluded  
in certain  
cases.

68. [No pleader, vakfi or mukhtar and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-munsif \* \* \* \*]

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator or Village-munsif, to employ any relative, servant or dependant who is not, and has not previously been, a pleader, vakfi or mukhtar, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party.

When a relative, servant or dependant appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.]

Power of  
Court to  
appoint  
pleader for  
agriculturist.

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakfi or mukhtar, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may, with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

## CHAPTER XI.

### MISCELLANEOUS.

Mortgages,  
etc., to be  
valid only  
when written.

70. No mortgage, lien or charge of or upon any immoveable property, belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

<sup>1</sup> This section was substituted for the original section 68 by s. 15 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

<sup>2</sup> The words "the subject-matter whereof does not exceed in amount or value one hundred rupees" were repealed by s. 17 of the Dekkhan Agriculturists' Relief Act, 1882 (22 of 1882).

Nothing in this section shall apply to any mortgage, lien or charge created by mere operation of law, or in favour of the Government or of any officer of the Government in his official capacity.

XIV of 1882. <sup>1</sup>71. [The last clause of section 258 of the <sup>2</sup>Code of Civil Procedure shall not apply to payments out of Court made in any proceeding under this Act, in any case where an acknowledgment by the judgment-creditor for the same is produced, or when the payment is either admitted by him or proved.] <sup>3</sup>Bar of application of section 258, Act XIV, 1882.

<sup>3</sup>71A. In taking an account under section 13 or any suit under this Act where interest is chargeable, such interest shall be awarded at the following rates :— <sup>4</sup>Rate of interest allowable on taking an account.

(a) the rate, if any, agreed upon between the parties or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable ; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or, when any agreement between the parties or the persons (if any) through whom they claim, to set off profits against interest and assessment and similar charges without an account has been set aside by the Court, such rate as the Court may deem reasonable.]

<sup>5</sup>72. [In any suit <sup>5</sup>[of the description mentioned in section 3 clause (w)] <sup>6</sup>Limitation. for the recovery of money from a person <sup>6</sup> \* \* \* \* \* who at the time when the cause of action arose was an agriculturist <sup>7</sup>[in any of the districts of Pooná, Sátára, Sholápur, and Ahmednagar], the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the Second Schedule annexed to the <sup>8</sup>Indian Limitation Act, 1877 (that is to say) :—

(a) when such suit is founded on a written instrument registered under this Act on any law in force at the date of the execution of such instrument,—twelve years ;

(b) in any other case,—six years :

<sup>1</sup> S. 71 was inserted by s. 16 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895). The original s. 71 (which was repealed by Act 23 of 1881) related to registration of mortgages executed before the passing of the Act.

<sup>2</sup> See now Act 5 of 1908.

<sup>3</sup> S. 71A was inserted by a. 17 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>4</sup> This section was substituted for the original s. 72 by a. 17 of the Dekkhan Agriculturists' Relief Act, 1881 (23 of 1881).

<sup>5</sup> These words were substituted for the words " under this Act " by a. 12 (1) of the Dekkhan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>6</sup> The words " not being merely a surety for the principal debtor " were repealed by s. 12 (2), *ibid.*

<sup>7</sup> These words were inserted by a. 18 of the Dekkhan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>8</sup> See now Act 9 of 1908.

<sup>1</sup>[Provided that nothing in this section shall—

(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not at the time when the cause of action arose, an agriculturist <sup>2</sup>[in any of the districts aforesaid], or

(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.]

**73.** [Decision as to whether person is an agriculturist, final.] *Rep. Act VI of 1895, s. 3.*

Certain agricultural produce exempted from attachment, etc.

<sup>3</sup>[73A. When the Collector has taken any immoveable property of a judgment-debtor or insolvent into his possession under section 22 or section 29, he may, by an order in writing, direct that any other such property not so taken shall be deemed to be reserved for the support of the judgment-debtor or insolvent and the members of his family dependent on him, and may rescind that order.

While any such order continues in force in respect of any immoveable property, agricultural produce grown on that property shall not be attached or sold in execution of a decree passed whether before or after this Act comes into force, and shall not vest in the receiver appointed in any insolvency proceedings.]

Civil Procedure Code to apply in Subordinate Judges' Courts.

**74.** Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act.

Co-operative Credit Societies.

<sup>4</sup>[74A. Except section 2 and section 21, the provisions of this Act shall not apply to any matter to or in which any society registered under the <sup>5</sup>Co-operative Credit Societies Act, 1904, is a party.]

X of  
1904.

Additional power to make rules.

**75.** The <sup>6</sup>[Provincial Government] may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained.

Rules to be published.

**76.** All rules made by the <sup>6</sup>[Provincial Government] under this Act shall be published in the official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

<sup>1</sup> This proviso was substituted for the original proviso by s. 12 (3) of the Dekkan Agriculturists' Relief Act, 1886 (23 of 1886).

<sup>2</sup> These words were inserted by s. 18 of the Dekkan Agriculturists' Relief Act, 1895 (6 of 1895).

<sup>3</sup> S. 73A was inserted by s. 18 of the Dekkan Agriculturists' Relief Act, 1882 (22 of 1882).

<sup>4</sup> S. 74 A was inserted by s. 1 of the Dekkan Agriculturists' Relief (Amendment) Act, 1912 (Bom. 1 of 1912).

<sup>5</sup> See now Bom. 7 of 1925.

<sup>6</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

**THE BROACH AND KAIRA INCUMBERED ESTATES  
ACT, 1881.**

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ACT No. XXI of 1881.<sup>1</sup>

[THE BROACH AND KAIRA INCUMBERED ESTATES ACT, 1881.]

[7th September, 1881.]

Amended by Bom. 2 of 1919.

Repealed in part, by Act 38 of 1920.

Declared not to be in force in the Panch Mahals, by Act 7 of 1885.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

*An Act to amend the law providing for the relief of Thákurs in the Districts of Broach and Kaira.*

WHEREAS it is expedient to amend the law providing for the relief of Preamble. Thákurs in the Districts of Broach and Kaira ; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

1. This Act may be called the Broach and Kaira Incumbered Estates Short title. Act, 1881 :

and it shall come into force on the passing thereof.

Commence-  
ment.

2. <sup>2</sup>Act No. XIV of 1877 (*to relieve from Incumbrances the estates of Thákurs in Broach and Kaira*), except the last three sections, is repealed. Partial repeal of Act XIV of 1877.

But all applications, appointments, and rules made, all notices published and all other things duly done under the said Act or under <sup>3</sup>Act No. XV of 1871 (*to relieve from Incumbrances the estates of Thákurs in Broach*) shall be deemed to have been respectively made, published and done under this Act.

In section 40 of the said <sup>2</sup>Act No. XIV of 1877, for the words "the said Táluqdári Settlement-officer," the words "the Táluqdári Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act, 1881, section 7," shall be substituted.

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1881, Pt. V, p. 953, and for Proceedings in Council, see *ibid*, Supplement, pp. 435, 451, 1060 and 1092.

This Act is not in force in the Panch Mahals—see the Panch Mahals Laws Act, 1885 (7 of 1885), s. 2 (1).

<sup>2</sup>*Supra*.

<sup>3</sup>Act 15 of 1871 was repealed by the Broach and Kaira Incumbered Estates Act, 1877 (14 of 1877).

Interpre-  
tation-clause.

3. In this Act—

“thákur” means also Tálukdár, Jágirdár, and kásbáti, and such other classes of holders of estates as the <sup>1</sup>[Provincial Government] may <sup>2</sup>\*\*\*\* declare to be thákurs for the purposes of this Act :

“heir” means the person for the time being entitled as heir to a thákur :

“Commissioner” means the Revenue Commissioner of the Northern Division of the Presidency of Bombay.

## CHAPTER II.

### OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application  
for benefit  
of Act.

4. At any time within six months after the passing of this Act, any thákur, or any person who would be sole heir or one of the heirs to such thákur if he then died intestate, may apply, in writing, to the Commissioner stating that such thákur is subject to debts or liabilities, other than debts due, or liabilities incurred, to <sup>3</sup>[the Crown], or that his immoveable property is charged with debts or liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any thákur or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person, or by the legally constituted administrator or manager of his estate.

Order to  
inquire.

5. When any such application is made by or on behalf of a thákur, or the person who would be his sole heir if he then died, the Commissioner shall direct an inquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the <sup>4</sup>[Provincial Government] in this behalf, either to reject such application or to direct an inquiry to be made as aforesaid.

Verified  
statement to  
be submitted.

6. When an inquiry has been directed under section 5, the applicant shall, within a period to be fixed by the Commissioner, submit to the officer appointed to make such inquiry a statement duly verified by the

<sup>1</sup>The words “Provincial Government” were substituted for the words “Local Government” by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>The words “with the previous sanction of the Governor General in Council” were omitted by a. 2 and Schedule I of the Devolution Act, 1920 (38 of 1920).

<sup>3</sup>The words “the Crown” were substituted for the word “Government” by the Adaptation of Indian Laws Order in Council.

<sup>4</sup>The words “Provincial Government” were substituted for the words “Governor of Bombay in Council” by *ibid.*

said applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.

XLV of  
1860.

7. The officer so appointed, after making inquiry, shall submit a report of his proceedings to the Commissioner.

False  
averments in  
statement.  
Report of  
inquiry and  
proceedings  
thereon.

On receipt of such report, the Commissioner may—

(a) direct a further inquiry, or

(b) dismiss the application, or

(c) by order published in the <sup>1</sup>[Official Gazette], direct that the immoveable property of the debtor shall be managed, and that his debts shall be liquidated, in the manner hereinafter provided, by a manager.

The Tálúqdári Settlement-officer<sup>2</sup> for the time being shall, unless the <sup>3</sup>[Provincial Government] in any case otherwise directs; be such manager.

### CHAPTER III.

#### OF THE ORDER OF MANAGEMENT.

8. Such order (hereinafter called "the order of management") shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject or which are charged on the whole or any part of his immoveable property on the said date, and to the amount of any loan which may be received by the manager from Government in the manner hereinafter provided.

The management shall be deemed to commence from the date on which the order is published.

<sup>1</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>As to this officer, see the Broach and Kaira Incumbered Estates Act, 1877 (14 of 1877), s. 40.

<sup>3</sup>The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Effect of order of management. 9. On the publication of the order of management the following consequences shall ensue :

Stay of pending proceedings, etc. *first*, all proceedings then pending in any Civil Court in British India in respect to the debts and liabilities mentioned in section 8 shall be stayed ; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended ;

Bar of fresh proceedings. *secondly*, so long as the management continues, no fresh proceedings processes, executions or attachments shall be instituted in or issued by any Civil Court in British India in respect of such debts and liabilities ;

The debtor incompetent— *thirdly*, so long as the management continues, the debtor shall be incompetent—

to contract debts, to incur or alienate property, to grant receipts for rent. (a) to enter into any contract involving him in pecuniary liability or

(b) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(c) to grant valid receipts for the rents and profits arising or accruing therefrom :

Provided that nothing contained in this clause shall be deemed to preclude the manager from letting, and the debtor from taking, the whole or any part of such property on such terms consistent with this Act as may be agreed upon between the parties ;

*fourthly*, so long as the management continues, no person other than the manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

Manager to have powers of owner and to receive rents and profits ; to have powers of Collector for their recovery. 10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management ;

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a thákur, all the powers possessed by a Collector, under the law for the time being in force, for securing and recovering land-revenue due to Government :

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years to take effect in possession.

Manager to pay therefrom cost of management and repairs. 11. From the sums received or recovered under section 10, the manager shall pay—

*first*, the costs of the management, including the costs of necessary repairs ;

*secondly*, the Government revenue and all debts and liabilities for the time being due or incurred <sup>1</sup>[to the Crown] in respect of the property under management ; Government revenue, etc.;

*thirdly*, the rent (if any) due to any superior holder in respect of the said property ; rent due to superior holder :

*fourthly*, such periodical allowance as the Commissioner may from time to time fix for the maintenance and other necessary expenses of the debtor and of such members of his family as the Commissioner directs ; allowance for maintenance and expenses of debtor and family,

*fifthly*, the cost of such improvements of the said property as he thinks necessary, and as are approved by the Commissioner. cost of improvements, etc.

The residue shall be retained by the manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section 8, other than those so due or incurred <sup>1</sup>[to the Crown], and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from Government by the manager under this Act. Residue how disposed of.

#### CHAPTER IV.

##### PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the manager shall publish in the <sup>2</sup>[Official Gazette] a notice in English and Gujrati calling upon all persons having claims against the debtor or the property under management to notify the same in writing to such manager within six months from the date of the publication. Notice to claimants against debtor.

He shall also cause copies of such notice to be exhibited at the Mamlatdars' kacharis in the district in which the said property lies, and at such other places as he thinks fit. Copies of notice to be exhibited.

13. Every such claimant shall, along with his claim, present full particulars thereof. Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim. Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant. Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case. Power to exclude documents not produced with claim.

<sup>1</sup> The words " to the Crown " were substituted for the words " to Government " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by *ibid.*

Claim not duly notified to be barred. 14. Every such claim (other than claims of the <sup>1</sup>[Crown]) not notified to the manager within the time and in the manner required by such notice shall, except as provided in section 19, clause (d), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

Admission of claims within further period of six months. Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 12, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities. 15. The manager shall inquire into the history and merits of every claim received under sections 12 and 14, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest. 16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon, to the date of the payment and discharge thereof.

Scheme for liquidation. 17. When the total amount of the debts and liabilities (including those due and incurred <sup>2</sup>[to the Crown]) has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Provisions of scheme. Every such scheme shall further provide for the continuance of the payments to be made by the manager under section 11, and for the repayment of the money (if any) which the manager proposes to borrow from Government under this Act, and may provide for the improvement of the property under management either from the said income, or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

Proceedings of Commissioner on submission of scheme. 18. The Commissioner may—  
(a) as often as he thinks fit send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(b) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him, either as it stands, or subject to such modifications as he may deem expedient.

<sup>1</sup> The word "Crown" was substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "to the Crown" were substituted for the words "to Government" by *ibid.*

19. At any time before he has sanctioned a liquidation-scheme under section 18, the Commissioner may, by an order published in the <sup>1</sup>[Official Gazette], direct that on a date fixed by such order the management shall be relinquished. <sup>Power to relinquish management.</sup>

On the date so fixed—

- (a) the management shall terminate ;
- (b) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section 10 ;
- (c) any residue of the rents and profits of the said property retained under the last clause of section 11 shall be paid to him ; and
- (d) the proceedings, processes, executions and attachments stayed and suspended under section 9, and the debts and liabilities barred by section 14, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

## CHAPTER V.

### OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION SCHEME.

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the <sup>2</sup>[Provincial Government] may from time to time by rule direct ; and thereupon— <sup>Effects of sanctioning scheme.</sup>

1st, all proceedings, processes, executions and attachments stayed or suspended under section 9 shall be for ever barred ; and

2nd, every debt or liability due or owing to any person which was provable before the manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Chapter IV of this Act in respect of such debt or liability.

21. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue-year. <sup>Power to remove mortgagee in possession.</sup>

<sup>1</sup> The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words " Provincial Government " were substituted for the words " Local Government " by *ibid.*

If such incumbrancer refuse or neglect to obey such order, the manager may, without resorting to a Civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Chapter IV of this Act.

Power to inquire into consideration given for leases.

22. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated within the three years immediately preceding the commencement of the management, the manager may inquire into the sufficiency of the consideration for which the lease was given ; and, if such consideration appear to him insufficient, may by order, with the consent of the Commissioner, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the manager thinks fit ; and, in default of such payment, the lease shall be cancelled.

Power to lease.

23. Subject to the rules made under section 31, the manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions, as may be agreed upon.

Power to raise money by mortgage or sale.

24. At any time after the liquidation-scheme has been sanctioned as aforesaid, the manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme—

(a) by mortgaging the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management ; or

(b) by charging the whole or any part of such property ; or

(c) by selling, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the said property as may appear expedient ; or

(d) by borrowing money from Government at such rate of interest as appears reasonable to the <sup>1</sup>[Provincial Government].

Manager's receipt a discharge.

25. The manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

<sup>1</sup> The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.



26. When the debts and liabilities mentioned in the liquidation-scheme and the amount of any loan received from Government under clause (d) of section 24, together with the interest (if any) due thereon, have been paid and discharged as therein provided, or in such other manner as the Commissioner thinks fit, the manager shall publish in the [Official Gazette] a notice fixing a date for the termination of the management.

Termination  
of manage-  
ment.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the manager under the power conferred by section 24, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 10, 23 and 24.

Restoration  
of owner.

27. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes hereinbefore provided,—

Death of  
debtor during  
management.

*1st*, the management shall continue and proceed in all respects as if such debtor were still living ;

*2ndly*, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (b) and (c) of section 9 ; and

*3rdly*, no Civil Court in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management, for or in respect of any debt or liability incurred by any such person whether before or after his said succession.

28. When a thákur has been restored under section 26 to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such thákur, shall be valid as to any time beyond his natural life [unless made or granted with the previous sanction of the Commissioner].

Mortgages,  
etc., made by  
restored  
thákur valid  
only for his  
life.

## CHAPTER VI.

### OF APPEAL AND REVISION.

29. An appeal against any decision or order under sections 14, 15, 16 and 22, or imposing a fine or imprisonment in exercise of the powers conferred by section 35, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

<sup>1</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup>These words were added by s. 2 and First Schedule of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call for proceedings and pass order thereon.

30. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

## CHAPTER VII.

### MISCELLANEOUS.

Power to make rules.

31. The <sup>1</sup>[Provincial Government] may, from time to time, make rules consistent with this Act—

(a) to regulate the security to be required from subordinate officers under this Act;

(b) to regulate the procedure in all cases under this Act;

(c) for the guidance of officers inquiring into and determining on claims under Chapter IV of this Act; and in particular as to the allowance of interest (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities and repaying any loan received hereunder from Government;

(d) for investing any moneys received or raised by the manager under this Act in any Government securities of British India, and for the sale of such securities; and

(e) generally to carry out the provisions of this Act.

Such rules shall be published in the <sup>2</sup>[Official Gazette], and when so published shall have the force of law.

Power to appoint new manager.

32. The <sup>1</sup>[Provincial Government] may suspend or remove any manager, and may appoint any officer in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

<sup>1</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>2</sup> The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

33. Every manager appointed under this Act and every agent of such manager shall be deemed a public servant within the meaning of the Managers and their agents to be public servants.  
 XLV of Indian Penal Code.  
 1860.

34. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within Investigation a judicial proceeding.  
 XLV of the meaning of the Indian Penal Code.  
 1860.

35. For the purposes of this Act, the manager and any officer making an inquiry under section 5 may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure. Power to summon witnesses and compel production of documents.

36. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bona fide* pursuant to this Act. Bar of suits.

37. Nothing in this Act precludes the Courts in Broach and Kaira having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party. Saving of jurisdiction of Courts in Broach and Kaira in respect of certain suits.

38. Nothing in section 9 shall be deemed to render any of the following thákurs, namely, the thákur of Ahmod, the thákur of Sarod, the thákur of Kerwára, the thákur of Dehej, and the thákur of Janiádra, incompetent to enter into contracts involving him in pecuniary liability, nor shall anything in section 28 apply to any of the said thákurs : Exemption of certain thákurs from certain provisions of Act.

Provided that, if any such thákur has, since the scheme for the settlement of his debts and liabilities was approved under section 11 of the said <sup>1</sup>Act No. XV of 1871, entered into any contract involving him in pecuniary liability exceeding the average annual income derived during the previous five years from immoveable property after deducting therefrom the land tax and other dues <sup>2</sup>[of the Crown], the <sup>3</sup>[Provincial Government] may, by notification in the <sup>4</sup>[Official Gazette], declare that the exemption made by the former part of this section shall cease in his case, and thereupon such exemption shall cease accordingly.

<sup>1</sup>Act 15 of 1871 was repealed by the Broach and Kaira Incumbered Estates Act, 1877 (14 of 1877).

<sup>2</sup>The words "of the Crown" were substituted for the words "of Government" by the Adaptation of Indian Laws Order in Council.

<sup>3</sup>The words "Provincial Government" were substituted for the words "Local Government" by *ibid.*

<sup>4</sup>The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

**THE PANCH MAHALS LAWS ACT, 1885.****CONTENTS.****PREAMBLE.**

Sections.

1. Short title.
2. Laws of Kaira to apply.  
    Other laws repealed.
3. Pending proceedings.
4. Territory to cease to be scheduled district.

**THE SCHEDULE.**

ACT No. VII OF 1885.<sup>1</sup>

[THE PANCH MAHALS LAWS ACT, 1885.]

[20th February 1885.]

Repealed in part, by Act 12 of 1891.

Amended, by Bom. I of 1910.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

## An Act to amend the law in force in the Panch Mahals.

WHEREAS it is expedient that the law in force in the territory comprised in the Panch Mahals should on and from the first day of May, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the <sup>2</sup>Scheduled Districts Act, 1874, and the <sup>2</sup>Laws Local Extent Act, 1874; It is hereby enacted as follows—

XIV of  
1874  
XV of  
1874.

1. This Act may be called the Panch Mahals Laws Act, 1885. Short title.

2. (1) Save and except the enactments specified in the Schedule <sup>Laws of</sup> hereto annexed, all enactments which on the first day of May, 1885, <sup>Kaira to</sup> are in force in the district of Kaira, and not in the Panch Mahals, shall <sup>apply.</sup> be deemed to come into force in the Panch Mahals on that day.

(2) All enactments which on that day are in force in the Panch Mahals <sup>Other laws</sup> and not in the district of Kaira shall be deemed to be repealed on and <sup>repealed.</sup> from that day in the Panch Mahals.

3. All proceedings commenced before any authority in the Panch <sup>Pending</sup> Mahals before the first day of May, 1885, and still pending on that day, <sup>proceedings.</sup> shall be disposed of by such authority as the <sup>3</sup>[Provincial Government] may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

4. On and from the first day of May, 1885, the Panch Mahals shall <sup>Territory to</sup> cease to be a scheduled district \* \* \* \* \* <sup>cease to be</sup> <sup>scheduled</sup> <sup>district.</sup>

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1884, Pt. V, p. 594; and for Proceedings in Council, see *ibid*, Supplement, pp. 1540 and 1651; and *ibid*, 1885, Supplement, p. 335.

<sup>2</sup> General Acts.

<sup>3</sup> The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> The words and figures "and in Part II of the First Schedule to the Scheduled Districts Act, 1874, and in the same part of the Sixth Schedule to the Laws Local Extent Act, 1874, the words 'The Panch Mahals' shall be repealed" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), Genl. Acts.

## THE SCHEDULE.

## ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

*Acts of the Governor General in Council.*

Number and year.	Title.	Extent of exception.
<sup>1</sup> VIII of 1870 ..	For the prevention of the murder of female infants.	The whole.
<sup>2</sup> XXI of 1881 ..	To amend the law providing for the relief of Thakurs in the districts of Broach and Kaira.	The whole.

*Acts of the Governor of Bombay in Council.*

Number and year.	Title.	Extent of exception.
V of 1862 ..	For the preservation of the Bhagdari and Narwadari Tenures.	The whole.
V of 1879 ..	To consolidate and amend the law relating to Revenue-officers and the land-revenue in the Presidency of Bombay.	Section 85 <sup>3</sup> [and sub-section (3) of section 58].

<sup>1</sup> Genl. Acts, but *see* section 2 of Bom. III of 1897, which declares that Act 8 of 1870 shall be deemed to extend, and from the 21st December 1870 to have extended, to the Province of Bombay.

<sup>2</sup> *Supra*.

<sup>3</sup> These words, figures and brackets were substituted for the words and figures "and last fifteen words of section 58" by section 2 of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

THE CITY OF BOMBAY MUNICIPAL (SUPPLEMENTARY)  
ACT, 1888.

CONTENTS.

PREAMBLE.

Sections.

1. Confirmation of the City of Bombay Municipal Act, 1888, so far as regards Benches, Magistrates and Courts of Small Causes.
2. Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court.
3. Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.
4. Appeal to the Bombay High Court from orders of Presidency Magistrates in Bombay.
5. Period of limitation for appeals to the Bombay High Court under the two last foregoing sections.

ACT No. XII OF 1888.<sup>1</sup>

[THE CITY OF BOMBAY MUNICIPAL (SUPPLEMENTARY) ACT, 1888.]

[12th October, 1888.]

## An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888 \* \* \* \*

WHEREAS it is expedient to supplement by legislation in the Council of the Governor General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1888 \* \* \* \* ; It is hereby enacted as follows :—

Bom. III of 1888. 1. The City of Bombay Municipal Act, 1888 \* \* \* \* shall, Confirmation of the City of Bombay Municipal Act, 1888, so far as regards—

(a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, so far as regards Benches, Magistrates and Courts of Small Causes, be as valid as if they had been passed by the <sup>3</sup>[Central Government] at a meeting for the purpose of making Laws and Regulations.

Bom. III of 1888. 2. (1) If, before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay. Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court.

(2) When a reference is made to the High Court under sub-section (1) the provisions of sections 618 to 621, both inclusive, of the <sup>4</sup>Code of Civil Procedure shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 70; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 99 and 107. The short title was given by Bom., 2 of 1921.

<sup>2</sup> The words relating to the Calcutta Municipal Consolidation Act, in the title and preamble, and in section 1, were repealed by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), Bengal Code.

<sup>3</sup> The words "Central Government" were substituted for the words "Governor General of India in Council" by the Adaptation of Indian Laws Order in Council.

<sup>4</sup> See now Act 5 of 1908.



Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.

3. (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees. Bom. III of 1888.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final. Bom. III of 1888.

Appeal to the Bombay High Court from orders of Presidency Magistrates in Bombay.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888. Bom. III of 1888.

(2) The High Court may, from time to time, make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall defer action upon the order of the Presidency Magistrate until the appeal has been disposed of.

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order passed therein by the High Court, or if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section, the High Court may direct by whom the costs of the appeal are to be paid, and whether in the whole or in what part or proportion.

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself.

Period of limitation for appeals to the Bombay High Court under the two last foregoing sections.

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the Second Schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that Schedule. 1877.

<sup>1</sup> See now Act 5 of 1908.

<sup>2</sup> See now entry No. 156 of Schedule I to the Indian Limitation Act, 1908 (9 of 1908).

ACT No. VIII OF 1891.<sup>1</sup>

[6th March 1891.]

## An Act to extend the Indian Easements Act, 1882, to certain areas in which that Act is not in force.

V of 1882. WHEREAS it is expedient to extend the Indian Easements Act, 1882, to certain areas in which that Act is not in force ; It is hereby enacted as follows :—

V of 1882. 1. The Indian Easements Act, 1882, is hereby extended to the territories respectively administered by the Governor of Bombay in Council and the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh.

Extension of Act V, 1882, to Bombay and the North-Western Provinces and Oudh.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 1 ; for Report of the Select Committee, see *ibid.*, Pt. V, p. 18 ; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 2 and 35.

**ACT No. XV OF 1894.<sup>1</sup>**

[THE ENGINEERS' CERTIFICATES VALIDATION ACT, 1894.]

[18th October, 1894.]

Repealed in part, by Act 10 of 1914.

**An Act to validate certain certificates granted to engineers of steam-ships.**

WHEREAS the Steam-vessel Survey Amendment Act of 1873 was VI of 1884. repealed by the <sup>2</sup>Inland Steam-vessels Act, 1884, which came into force in the territories administered by the Governor of Bombay in Council on the first day of December 1885;

And whereas between the said day and the seventh day of February 1893, certain certificates styled "Indian Foreign Trade Certificates of Competency" were inadvertently granted in Bombay in pursuance of rules made under the said Steam-vessel Survey Amendment Act of 1873, VII of 1884. and without regard to the provisions of the <sup>3</sup>Indian Steam-ships Act, 1884;

And whereas it is expedient to validate the said certificates;

It is hereby enacted as follows:—

1. (1) This Act may be called the Engineers' Certificates Validation Short title. Act, 1894; \*4

<sup>4</sup>(2) \* \* \* \* \*

2. The certificates described as "Indian Foreign Trade Certificates of Competency" which were granted under the authority of the Governor of Bombay in Council between the first day of December, 1885, and the seventh day of February, 1893 (both inclusive), to certify to the competency of the grantees thereof to act as engineers of steam-ships, shall be deemed to have been granted under the <sup>3</sup>Indian Steam-ships Act, 1884, and shall be recognised as valid for voyages of those classes with reference whereto they were granted: Provided that nothing herein contained shall be deemed to affect such certificates in any other respect.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 135; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 228 and 242.

<sup>2</sup> See now Act 1 of 1917, Genl. Acts.

<sup>3</sup> General Acts.

<sup>4</sup> The word "and" and sub-cl. (2) were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

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