



SUPPLEMENT
TO THE
BOMBAY GOVERNMENT GAZETTE
CONTAINING
BILLS OF THE GOVERNMENT OF INDIA.

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HOME DEPARTMENT (Legislative).

The following Report of a Select Committee was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd April 1862 :—

HOME DEPARTMENT (LEGISLATIVE).

We, the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill to limit in certain cases the amount of assessment to the Duties chargeable after the 31st day of July 1862 under Act XXXII. of 1860 (*for imposing Duties on Profits arising from Property, Professions, Trades, and Offices*) and Act XXXIX. of 1860 (*to amend Act XXXII. of 1860*), and otherwise to modify the said Acts, was referred, have the honour to report that we recommend that the Bill be passed, with the following amendments :—

Section VII. lines 23 and 24. The omission of the words "inadequate or insufficient" and the introduction instead thereof of the words "obviously inadequate."

Section XIV. (1), lines 4, 5, and 6. The omission of the words "who shall prove to the satisfaction of the Collector or Commissioner that the aggregate amount of his" and the introduction instead thereof of the word "whose."

Section XIV. (2), lines 1 to 6. The omission of the words "Every person assessed under the said Acts XXXII. and XXXIX. of 1860 claiming to be exempted from the payment of Duty under the provisions of the last preceding Section marked (1)" and the introduction instead thereof of the words "Every person assessed under the said Acts XXXII. and XXXIX. of 1860 for the year commencing from the 1st August 1862, on an Income or Profits amounting to 500 Rupees, who

shall claim to be exempted from payment of Duty on the ground that his Income and Profits do not amount to 500 Rupees."

(Signed) S. LAING.
" H. B. HARRINGTON.
" W. S. FITZWILLIAM.
DAVID COWIE.

23rd April 1862.

M. WYLIE,
Deputy Secy. to the Govt. of India,
Home Department.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd April 1862 :—

HOME DEPARTMENT (LEGISLATIVE).

We, the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill to amend the Code of Criminal Procedure was referred, have the honour to report that we have considered the Bill and the Paper embodying an abstract of the opinions of the Principal Officers of the Non-Regulation Provinces which was laid before us.

As we consider that the power granted to the Executive Government of varying the provisions of the Code of Criminal Procedure in its application to Non-Regulation Provinces should not be larger than the circumstances of the case absolutely require, and as we think that there are only two points on which any modification has been shown to be necessary, we have amended the Bill so as to confine it to those points.

The first Section will enable the Government, in giving effect to the seventh Explanatory Note of the Schedule (whereby the powers granted by the Code may, in Non-Regulation Provinces, be entrusted to other Officers than those named in the Code), to extend the powers of an Officer in charge of a District to the trial of all cases not punishable with death, with a limit as

to punishment similar to that prescribed in Section 22 of the Code for Assistant Session Judges of the Bombay Presidency, namely, imprisonment for a term not exceeding seven years (including such solitary confinement as is authorised by law), or fine, or both.

The second Section provides that when, under the definition in the 14th Section, the Sudder Court may consist of a single Judge (as in the case of a Chief Commissioner of a Province), the power of confirming a sentence of death under Section 398 of the Code, and the power of confirming, modifying, amending, and reversing sentences or orders under Sections 401 and 420 may be exercised by him. Those Sections require the concurrence of two or more Judges.

(Signed) CECIL BEADON.
 " H. B. HARRINGTON.
 " H. FORBES.
 " C. J. ERSKINE.

23rd April 1862.

AMENDED BILL.

A Bill to Amend the Code of Criminal Procedure.

Whereas it is expedient to amend the Code of Criminal Procedure in regard to the extension thereof to any parts of the Territories not subject to the General Regulations; It is enacted as follows:—

I. When, under the provisions of Section 445 of the Code of Criminal Procedure, the said Code has been on shall be extended to any part of the Territories not subject to the General Regulations of Bengal, Madras, or Bombay, it shall be lawful for the Governor General in Council, or for the local Government of such Territory, to vest the Chief Officer charged with the executive administration of a District in criminal matters, by whatever designation such Officer is called, with power to try all offences not punishable with death; and, under the provisions of the said Code, to pass sentence of imprisonment of either description for a term not exceeding seven years, including such solitary confinement as is authorised by law, or fine, or both.

II. When the Sudder Court in any part of the Territories to which the said Code of Criminal Procedure has been or shall be extended as aforesaid shall consist of a single Judge, such Judge shall have all the powers of two or more Judges of the Sudder Court under Sections 398, 401, and 420 of the said Code.

III. This Act shall be taken and read as part of the Code of Criminal Procedure.

Construction.

M. WYLIE,
 Depy. Secy. to the Govt. of India,
 Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd April 1862, and was referred to a Select Committee, with instructions to make their report thereon in a week:—

A Bill to extend to the Province of Oude certain Provisions of Acts XIV. of 1848 and XXXVI. of 1855 relating to the Manufacture of Contraband Salt, and to Amend the last-named Act.

Whereas it is expedient to extend to the Province of Oude certain provisions of Act XIV. of 1843 (for regulating the levy of Customs Duties and

the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal) and of Act XXXVI. of 1855 (to empower Officers of Custom and Land Revenue to search houses and others enclosed places for contraband Salt in the North-Western Provinces), and to amend the last-named Act; It is enacted as follows:—

1. So much of the said Act XIV. of 1843 as relates to the manufacture of alimentary Salt, and the prevention and punishment of the illicit manufacture and importation of such Salt, and the said Act XXXVI. of 1855 as hereinafter amended shall be held to have been and are hereby extended to the Province of Oude from the date on which Act XXXI. of 1861 (to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof) was extended to the said Province in the manner provided in Section XVIII. of the said Act.

II. Section IV. of Act XXXVI. of 1855 is hereby repealed, and the following Section is enacted in lieu thereof, and shall be read and construed in the same manner as if it formed part of the said Act, namely:—

"If the place to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the Officer making the search shall give notice to such woman in such zenanah or apartment, that she is at liberty to withdraw, and after giving such notice, and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of any Salt. Provided that the responsibility for the act, and the determination whether to force an entry or not, shall rest with the Officer of Customs or Land Revenue only."

STATEMENT OF OBJECTS AND REASONS.

An Act (XXXI. of 1861) was passed last year by the late Legislative Council to regulate the manufacture of Saltpetre by requiring that such manufacture should be carried on under license, and to enable the manufacturers of Saltpetre to refine the Salt produced in the manufacture of Saltpetre, and to sell the same on payment of the Government dues. The Act, as passed, took effect at once only in the North-Western Provinces, but it contains a Section authorising the Governor General in Council to extend its provisions to other parts of India. This power has lately been exercised in the case of Oude, to which Province the Act was extended by an order of the Governor General in Council, dated the 9th instant. But the Act of last year refers in one of its provisions to two previous Acts relating to Salt which are not in force in Oude, and the Local Authorities, with whom the Government of India concurs, considering it desirable that these Acts should also be extended to the Province of Oude with effect from the date on which the Act of last year was extended to the Province, the present Bill has been framed accordingly.

It is also proposed to take the opportunity of the introduction of the present Bill to amend one of the Sections of the latter of the two Acts above-mentioned in so far as it relates to forcible entries in cases of search for contraband Salt, and to adopt the language of the Code of Criminal Procedure where the place to be searched is in the occupancy of a respectable native female.

(Signed) H. B. HARRINGTON.

16th April 1862.

M. WYLIE,
Depy. Secy. to the Govt. of India,
Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 23rd April 1862, and was referred a Select Committee, with instructions to make their report thereon in a week:—

A Bill to repeal Act XVI. of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

Whereas, in consequence of the passing of the Indian Penal Code, many of the provisions of Act XVI. of 1852 have become inapplicable, and others require amendment, and it is expedient to repeal the said Act and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature; It is enacted as follows:—

I. Whenever, on the trial of any indictment

Court may amend certain variances not material to the merits of the case and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another Jury.

for an offence, there shall appear to be a variance between any statement in such indictment and the evidence offered in proof thereof, it shall be lawful for the Court before which the trial shall be had, if it shall consider that by the amendment of the

indictment the person indicted will not be prejudiced in his defence on the merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend on such terms as to postponing the trial if the person indicted apply for a postponement, and ordering the same to be had before the same or another Jury as such Court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences both with respect to the liability of witnesses to be indicted for giving false evidence and otherwise as if no such variance had occurred; provided that in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognisances of the prosecutor and witnesses, and of the person indicted and his surety or sureties, if any, accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the person indicted

shall be bound to attend to be tried at the time and place to which such trial shall be postponed, without entering into any fresh recognisances for that purpose, in such and the same manner as if they were originally bound by their recognisances to appear and prosecute, or give evidence at the time and place to which such trial shall be so postponed. Provided also, that where any such trial shall be ordered to be had before another Jury, the Crown and the person indicted shall respectively be entitled to the same challenges as they were respectively entitled to before the first Jury was sworn.

II. If upon the trial of any person charged

with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or of the offence of cheating and thereby dishonestly inducing the person deceived to deliver property under Section 420 of the Indian Penal Code, or of criminal breach of trust as a carrier, wharfinger, or warehouse-keeper under Section 407 of the said Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, the Court may order the indictment to be amended under the provisions of Section I. of this Act.

III. If upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, the Court may order the indictment to be amended under the provisions of Section I. of this Act.

IV. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or of the offence or theft in a building, tent, or vessel, under Section 380 of the said Code, evidence shall be given to prove that in respect of the property stated in the indictment such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, the Court may order the indictment to be amended under the provisions of Section I. of this Act.

V. If upon the trial of any person charged with the offence of theft as a clerk or servant, or property in the possession of his master under Section 381 of the Indian Penal Code, evidence shall be given to prove that such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the

Similar power of amendment in other cases.

Similar power of amendment in other cases.

said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, in respect of the property stated in the indictment, the Court may order the indictment to be amended under the provisions of Section I. of this Act.

Vl. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act shall be of the same force and effect in all respects as if the indictment had originally been in the form in which it is after such amendment shall have been made.

Vll. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment is, after such amendment shall have been made, without taking any notice of the fact of such amendment having been made.

Vlll. In any indictment for murder or culpable homicide, or for abetting murder or culpable homicide; or for attempting to commit murder, which shall be preferred after this Act shall come into operation, it shall not be necessary to set forth the manner in which, or the means by which the death of the deceased was caused or attempted to be caused, but it shall be sufficient in every indictment for murder to state that the person charged with the offence did murder the deceased by doing an act with the intention of causing the death of a human being, or, as the case may be, by doing an act with the intention of causing such bodily injury to the deceased as the offender knew to be likely to cause the death of the deceased, or by doing an act with the intention of causing bodily injury to some person, and that the bodily injury intended to be inflicted was sufficient, in the ordinary course of nature, to cause death, or by doing an act knowing it to be so imminently dangerous that it must in all probability cause the death of a human being, or such bodily injury as was likely to cause the death of a human being, and committing such act without any excuse for incurring the risk of causing death or such injury as aforesaid, and in every indictment for abetting murder, or for attempting to commit murder, it shall be sufficient to state that the person charged with the offence abetted the murder of the deceased, or attempted to murder the deceased, as the case may be.

IX. Upon any indictment for murder; the Jury may find the person charged with the offence not guilty of murder, but guilty of culpable homicide not amounting to murder.

X. Upon indictment for murder, the Jury may find the accused guilty of culpable homicide not amounting to murder.

Upon indictment for murder, Jury may find the accused guilty of concealing, or endeavouring to conceal, the birth of a child.

318 of the Indian Penal Code, and the person so found guilty shall be liable to be punished under the said Section of the said Code.

Xl. It shall not be necessary in an indictment for voluntarily causing grievous hurt to specify the particular kind of grievous hurt.

Xll. Upon an indictment for voluntarily causing grievous hurt, or for voluntarily causing hurt to any person, or for an offence under Section 336, 337, or 338 of the Indian Penal Code, the person indicted shall not be entitled to be acquitted upon the ground that the hurt caused the death of the person injured, or that the person indicted was guilty of culpable homicide.

Xlll. In an indictment for theft the person indicted may be charged with having dishonestly taken the property stated in the indictment out of the possession of the person mentioned therein without that person's consent, and such allegation shall be supported by proof that the persons indicted intending to take dishonestly such property out of the possession of the person mentioned in the indictment without that person's consent moved that property in order to such taking.

XlV. In every indictment in which it shall be necessary to mention any instrument or document, or to make an averment or allegation respecting any instrument or document, it shall be sufficient to describe such instrument or document by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac-simile* thereof, or otherwise describing the same, or the value thereof.

XlV. In every indictment in which it shall be necessary to mention any instrument or document, or to make an averment or allegation respecting any instrument or document, it shall be sufficient to describe such instrument or document by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac-simile* thereof, or otherwise describing the same, or the value thereof.

XV. In every indictment in which it shall be necessary to allege an intent to defraud, it shall not be necessary to allege or prove an intent to defraud any particular person, but it shall be sufficient to allege and prove an intent to defraud.

XVI. If, on the trial of any person charged with any offence, it shall appear to the Jury upon the evidence that the person charged did not complete the offence charged, but was guilty of an offence within the meaning of Section 511 of the Indian Penal Code by attempting to commit such offence, or to cause such offence to be committed, and in such attempt doing an act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence

XVI. If, on the trial of any person charged with any offence, it shall appear to the Jury upon the evidence that the person charged did not complete the offence charged, but was guilty of an offence within the meaning of Section 511 of the Indian Penal Code by attempting to commit such offence, or to cause such offence to be committed, and in such attempt doing an act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence

A party indicted for felony or misdemeanour may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged with and convicted of the attempt only. No persons so tried to be afterwards prosecuted for the same.

such offence, or to cause such offence to be committed, and in such attempt doing an act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence

charged in the indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the offence for which he was so tried.

XVII. If, upon the trial of any person indicted for criminal misappropriation of property, it shall be proved that he was guilty of committing theft of such property, he shall not by reason thereof be entitled to be acquitted of the offence charged against him.

XVIII. If, upon the trial of two or more persons indicted for jointly receiving stolen property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the Jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

XIX. A person may be indicted and punished for abetting an offence which has been committed in consequence of the abetment, notwithstanding the person who committed the offence shall not have been indicted or found guilty, or shall not be in custody or amenable to justice, and every abettor of an offence may be indicted, tried, and punished for the abetment as a substantive offence, and may be tried either jointly with the principal offender or separately, and punished by any of Her Majesty's Supreme Courts of Judicature which would have power to try the principal offender, or which would have power to try the abettor if he had committed the offence himself, either in the place in which he is guilty of the abetment, or in the place in which any act shall have been committed in pursuance of the abetment.

XX. A person may be indicted and punished for dishonestly receiving or retaining stolen property, notwithstanding the person by whose offence the possession of such property shall have been transferred, or who shall have criminally misappropriated such property or committed criminal breach of trust in respect thereof, shall not have been found guilty of such offence, or shall not be in custody or amenable to justice.

XXI. It shall be lawful to insert several counts in the same indictment against the same person for different offences. But the Judge, before whom the person indicted shall be tried, may direct that any one or more of the counts shall be treated as a distinct indictment or indictments, and that the person indicted shall be tried thereupon in the same manner as if such count or counts had been in separate and distinct indictments.

XXII. If, upon the trial of any indictment for theft, it shall appear that the property alleged in the indictment was taken at different times, prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

unless it shall appear that there were more than three takings or movings, or that more than the space of six calendar months elapsed between the first and the last of such takings or movings, and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings or movings not exceeding three as shall appear to have taken place within the period of six calendar months from the first to the last of such takings or movings.

XXIII. In every indictment for giving or fabricating false evidence, or for using or attempting to use false or fabricated evidence, or for any offence which by the Indian Penal Code is punishable in the same manner as the offences of intentionally giving false evidence, or for abetting or attempting to commit any of the offences aforesaid, it shall be sufficient to set forth the substance of the offence charged, without setting out any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

XXIV. In every indictment in which it shall be necessary to make any averment as to any money or any note of any Bank, or any note of Government payable on demand, or which by any law is or shall be declared to be a legal tender, it shall be sufficient to describe such money or note simply as money, without specifying any particular coin or Bank or other note, and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin, or of any such note as aforesaid, although the particular species of coin, of which such amount was composed, or the particular nature of the note, shall not be proved, and in cases of obtaining money or any such note or notes as aforesaid by cheating by proof that the offender obtained any piece or pieces of coin, or any such note or notes, or any portion thereof, or of the value thereof by cheating, although such piece or pieces of coin or note or notes may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person or persons, and such part shall have been returned accordingly.

XXV. It shall not be necessary to allege in any indictment any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come within any of the general exceptions contained in Chapter IV. of the Indian Penal Code, or within the exceptions contained in Section 136, Section 300, Section 323, Section 324, Section 325, Section 326, Section 375, or Section 499 of the said Code, but every charge shall be understood to assume the absence of all such circumstances, and it shall not be necessary on the part of the prosecutor to prove at the trial the absence of such circumstances in the first instance; but the person indicted shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Evidence as to general exception.

to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

XXVI. In proving the existence of circum-

Good faith to be presumed in certain cases.

Section 499 of the Indian Penal Code, good faith shall be presumed unless the contrary appear.

XXVII. In every indictment words used in describing an offence shall be deemed to have been used in the sense attached to them by the Indian Penal Code.

Words in indictments to be taken in the sense of the Penal Code.

XXVIII. Any person accused of murder or of culpable homicide may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature if the act which caused or the death took place within the jurisdiction.

which shall have caused the death shall have been committed wholly or partly within the local limits of the jurisdiction of such Court, or if the death shall have taken place within such local limits in the same manner as if both the act had been committed and the death had taken place within such local limits.

XXIX. Whenever the offence of which any person shall be accused shall consist of any thing which has been done and of any consequence which has ensued therefrom, the person accused may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature if either the act shall have been done or the consequence shall have ensued within the local limits of the jurisdiction of such Court in the same manner as if both the act had been done and the consequence had ensued within such local limits.

XXX. Whenever a person shall be accused of any offence punishable under Section 411, 412, 413, or 414 of the Indian Penal Code when part only of the offence be committed within the jurisdiction.

of stolen property, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature if the offence by which the possession of the property shall have been transferred shall have been committed either wholly or in part within the local limits of the jurisdiction of such Court, or if any of the stolen property shall have been received or retained by the person accused within such local limits.

XXXI. If any person shall be accused of any offence punishable under Section 424 of the Indian Penal Code of dishonestly or fraudulently concealing or removing any property of himself, or of any other person, or of dishonestly or fraudulently assisting in the concealment or removal thereof, such person may be tried, convicted, and punished by any of Her Majesty's Supreme Courts of Judicature if the property shall have been concealed or removed in any place within the local limits of such Court, or shall have been removed from any place within such local limits.

Similar provision as to cases under Section 424 of the Penal Code.

moving any property of himself, or of any other person, or of dishonestly or fraudulently assisting in the concealment or removal thereof, such person may be tried, convicted, and punished by any of Her Majesty's Supreme Courts of Judicature if the property shall have been concealed or removed in any place within the local limits of such Court, or shall have been removed from any place within such local limits.

XXXII. If any act shall have been committed or the consequence of any act shall have ensued on the boundaries of the local jurisdiction of such Court, or so near to such bound-

aries as to render it doubtful whether such act was committed or such consequence ensued within such local limits or not, such act or consequence may for all purposes be stated, deemed, and taken to have been committed or to have ensued within such local limits.

XXXIII. If any person shall be accused of any offence alleged to have been committed on a journey or on any voyage in British India, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature if any part of the journey or voyage shall have been performed within the local limits of the jurisdiction of such Court, or the person accused shall have been apprehended within such local limits.

Provision for the case of offences committed on a journey or voyage.

XXXIV. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence, or shall be charged with any offence punishable under Section 227 of the Indian Penal Code, or under Section XII. of Act XXIV. of 1855 (*relating to Penal Servitude*), the offender may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature if such person shall be apprehended and re-taken within the local limits of the jurisdiction of such Court, or if he was formerly tried by such Court, or in the case of an escape from custody if he shall have escaped from custody in any place within such local limits.

Escape from lawful custody under sentence.

XXXV. Any person accused of an offence may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature if the offence shall have been either commenced or completed within the local limits of the jurisdiction of such Court, in the same manner as if the offence had been wholly and entirely committed within such local limits.

Supreme Court may deal with offence either commenced or completed within local jurisdiction.

XXXVI. Every Justice of the Peace shall have power to deal with any person charged with an offence for which he is liable under this Act to be tried by one of Her Majesty's Supreme Courts of Judicature in the same manner as if such offence had been wholly and entirely committed within the local limits of such Court.

Justices of Peace may deal with such offences.

XXXVII. A former conviction or acquittal before a Court of competent jurisdiction of any offence hereby made punishable by Her Majesty's Supreme Courts of Judicature shall be a bar to any subsequent trial or conviction for the same offence.

A former conviction or acquittal before a competent Court to be a bar to subsequent trial or conviction.

bar to any subsequent trial or conviction for the same offence.

XXXVIII. The provisions of Sections 10, 12, 13, 14, 15, 16, 18, and 23 of the 9th Geo. 4, c. 74, intitled "An Act for improving the administration of Criminal Justice in the East Indies," shall be deemed to apply to and to include offences punishable under the Indian Penal Code. Section 5 of the said Act shall be deemed to include culpable homicide, and the words felony or misde-

Certain provisions of 9th George 4, c. 74, shall be deemed to apply to and include offences punishable under Penal Code.

meanour in Section 109 of the said Act shall be deemed to extend to and include any offence punishable under the Indian Penal Code by means of or in consequence of which the possession of property shall have been transferred.

XXXIX. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of "against the form of the statutes," or *vice versa*, nor because any person mentioned in the indictment is designated by a name of office or other description or appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or on an impossible day or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil in any case where the value or price, or the amount of damage, injury, or spoil is not of the essence of the offence.

XL. Every objection to an indictment for uncertainty, or for any formal defect apparent on the face thereof, shall be taken by demurrer or motion to quash such indictment before the Jury shall be sworn, and not afterwards; and every Court before which any objection shall be taken by demurrer or motion to quash for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particulars by some Officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

XLI. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of Oyer and Terminer or Sessions of Goal delivery; provided always, that if the Court, upon the application of the person so indicted, or otherwise, shall be of opinion that he ought to be allowed a further time either to prepare for defence or otherwise, such Court may adjourn the Sessions to any subsequent day, and may adjourn the trial of such person to such day or to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognisances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent day or Session without entering into any fresh recognisance for that purpose.

XLII. In any plea of *autrefois* convict or *autrefois* acquit, it shall be sufficient for the person accused to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment.

Prosecution for adultery not to be instituted except by the husband.

XLIII. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

XLIV. A charge of an offence under Section 498 of the Indian Penal Code shall not be instituted except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

XLV. Upon the trial of an indictment for either of the offences mentioned in the last two Sections, it shall be necessary to prove that the charge was instituted by the husband, and that the indictment is prosecuted by him.

XLVI. In the construction of this Act, unless Definitions.

where a contrary intention appears from the context, the word "Indictment" shall be understood to include "information," "inquisition," or "presentment," as well as "indictment," and also any "plea," "replication," or other pleading; and the terms "finding of the indictment" shall be understood to include "the taking of an inquisition, the exhibiting of an information," and the making of a presentment; and words importing the singular number or masculine gender shall include several persons and parties, as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter and thing. Words which refer to acts done shall include illegal omissions, the words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

XLVII. Whenever any person shall be sentenced by any of Her Majesty's Supreme Courts of Judicature to rigorous imprisonment, or to imprisonment with hard labour, or to solitary confinement, he shall be imprisoned in the House of Correction, whether such House of Correction be under the control of the Sheriff or not. The keeper of the House of Correction shall receive the person so sentenced, and shall be responsible for his safe custody.

XLVIII. Whenever any person shall be sentenced by any of Her Majesty's Supreme Courts of Judicature to transportation or penal servitude, such persons shall be kept in the House of Correction as the place of intermediate custody, whether such House of Correction be under the control of the Sheriff or not. The keeper of the House of Correction shall receive the person so sentenced, and shall be responsible for his safe custody.

XLIX. If the Sheriff be not the Officer in whom the control of the House of Correction is

If the Sheriff be not the

keeper of the House of Correction, how he shall proceed.

vested, he shall cause any person sentenced as aforesaid to be delivered to the keeper of the House of Correction, together with a warrant to be signed by a Judge of the said Supreme Court authorising the detention of such person. Such keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for the safe custody of such person.

L. All Constables and Police Officers are hereby empowered to aid and assist the Sheriff in carrying to the House of Correction any person sentenced as aforesaid.

LI. If the Sheriff be not the Officer in whom the Control of the House of Correction is vested, he shall be absolved from all responsibility in respect of the custody of any person sentenced as aforesaid from the time such person shall be delivered over to the custody of the keeper of the House of Correction.

LII. Whenever any person shall be sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, or to imprisonment with hard labour, for any offence committed within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, the person so sentenced shall be committed to the custody of the keeper of the House of Correction, whether such House of Correction be under the control of the Sheriff or not.

LIII. From and after the passing of this Act, all persons who are confined at the date of the passing of this Act in the House of Correction, whether under the sentence of any of Her Majesty's Supreme Courts of Judicature, or of any Justice of the Peace or Police Magistrate, shall be considered to be and shall remain in the custody of the Officer in whom the control of such House of Correction is vested, whether such Officer be the Sheriff or not, and such Officer shall be responsible for the safe custody of all such persons.

LIV. This Act shall commence and take effect in Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or in any Court to which the whole or any part of the Criminal jurisdiction of that Court shall be transferred, from the time of the passing thereof, and shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code, which have been or shall be instituted or commenced in the said Court, or in any other Court to which the whole or any part of the Criminal jurisdiction of such Court shall be transferred.

LV. This Act shall commence and take effect in Her Majesty's Supreme Courts of Judicature at Fort St. George and Bombay respectively, or in any Court to which the whole or any part of the Criminal jurisdiction of those Courts respectively shall be transferred, from the time at which it shall be notified in the Official Gazette by an order of the Governors in Council of Fort St. George and Bombay respectively,

tively, that the Act is to take effect in such Courts; and from such time the provisions of the Act shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code which have been or shall be instituted or commenced in the said Courts, or in any other Courts to which the whole or any part of the Criminal jurisdiction of such Courts shall be transferred.

LVI. From the time at which this Act shall take effect in any of Her Majesty's Supreme Courts of Judicature, as provided in the last two preceding Sections, Act XVI. of 1852 is repealed so far as it relates to indictments and proceedings in such Court, except as to offences not punishable under the Indian Penal Code.

STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced at the request of the Honorable and learned Chief Justice at Calcutta. The principal object of the Bill is to adopt the procedure of Her Majesty's Supreme Courts of Judicature to the trial of offences punishable under the Indian Penal Code. On the 1st January last the substantive Criminal Law relating to offences and persons within the jurisdiction of the Supreme Courts of Judicature underwent the same complete change as in places beyond the limits of the jurisdiction of those Courts. There is now one uniform substantive Criminal Law for all India, namely, the Indian Penal Code; but while, contemporaneously with the introduction of the Indian Penal Code, a Code of Criminal Procedure has been given to the Mofussil Courts, which has been prepared in reference to that Code, and is well suited to carry out its provisions, the Code of Criminal Procedure previously in force in the Supreme Courts of Judicature is still in force in those Courts. Two Criminal Sessions for the trial of offences punishable under the Indian Penal Code have already been held at Calcutta, in the course of which the unsuitableness of the present law to offences falling under the Indian Penal Code was very apparent, and some inconvenience was experienced. Similar inconvenience will continue to be experienced until this Bill is passed, and I have therefore been desired, in introducing the Bill, to ask for the suspension of the Rules of the Council, with a view to the Bill being passed into law at once.

The Bill has been prepared by the Honorable and learned Chief Justice, Sir Barnes Peacock, with the assistance of his Honorable and learned colleagues.

With regard to Madras and Bombay, I may mention that, although the Bill is so framed as to make it of general application, it is proposed to leave the time at which the Bill should take effect in those Presidencies to be determined by the local Governments. This will give the Honorable and learned Judges of Her Majesty's Supreme Courts of Judicature at Madras and Bombay, whom there is not time to consult, an opportunity of stating, in communication with the local Governments, any objections they may have to any of the provisions of the Bill before it comes into operation in their Courts.

(Signed) H. B. HARRINGTON.

9th April 1862.

M. WYLIE,

Depy. Secy. to the Govt. of India,
Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations, on the 9th April 1862, and was referred to a Select Committee, who will make a report thereon after the 12th July next :—

A Bill to provide for the Dissolution of the Subordinate Medical Officers', Widows', and Orphans' Fund, and the Distribution of the Funds belonging thereto.

Whereas, by certain Regulations prepared and adopted by certain members of the Subordinate Medical Department, a Society was established at Ferozepore, in 1852, for raising a Fund called "The Subordinate Medical Officers', Widows', and Orphans' Fund," the interest, dividends, and proceeds of which Fund were directed to be applied in making provision at certain specified rates for the widows and children of the subscribers, and it was directed that such provision should be made solely out of the interest and dividends of the said Fund; and whereas a petition has been presented to His Excellency the Governor General in Council by certain subscribers and members of the said Society, stating that no subscriptions have been contributed to the said Fund since the year 1857, and that in consequence thereof, and of the deaths of several of the subscribers to the said Fund, no steps have or can be taken to make the provision intended by the Regulations of the said Fund, and that no pensions whatever have, since the year 1857, been paid to any of the persons entitled to the benefits of the said Fund, and that, therefore, the expectations of the founders of the Fund have been disappointed, and the objects for which such Fund was established have failed; and praying that an Act may be passed to wind-up the affairs of the said Fund; and whereas no provision is made in the Regulations of such Fund for the dissolution thereof, or the distribution of the funds belonging thereto, and it is expedient to make provision for the same by law; It is enacted as follows :—

Preamble. of the Subordinate Medical Department, a Society was established at Ferozepore, in 1852, for raising a Fund called "The Subordinate Medical Officers', Widows', and Orphans' Fund," the interest, dividends, and proceeds of which Fund were directed to be applied in making provision at certain specified rates for the widows and children of the subscribers, and it was directed that such provision should be made solely out of the interest and dividends of the said Fund; and whereas a petition has been presented to His Excellency the Governor General in Council by certain subscribers and members of the said Society, stating that no subscriptions have been contributed to the said Fund since the year 1857, and that in consequence thereof, and of the deaths of several of the subscribers to the said Fund, no steps have or can be taken to make the provision intended by the Regulations of the said Fund, and that no pensions whatever have, since the year 1857, been paid to any of the persons entitled to the benefits of the said Fund, and that, therefore, the expectations of the founders of the Fund have been disappointed, and the objects for which such Fund was established have failed; and praying that an Act may be passed to wind-up the affairs of the said Fund; and whereas no provision is made in the Regulations of such Fund for the dissolution thereof, or the distribution of the funds belonging thereto, and it is expedient to make provision for the same by law; It is enacted as follows :—

I. On the petition to the Supreme Court of Judicature at Fort William in Bengal, of a majority of the subscribers of the said Subordinate Medical Officers', Widows', and Orphans' Fund, or of any ten subscribers of the Society and pensionaries on the said Fund praying for the dissolution of the said Society and the winding-up of the affairs of the said Fund, it shall be lawful for the said Supreme Court to make order for the same on the said petition, as fully as if the petitioners proceeded by information or bill, and as if there were parties defendants, and as fully as if the Regulations of the said Fund provided for the winding-up of the said Fund; and it shall be lawful for the said Court to make order for ascertaining and declaring the rights which attach on the said Fund, and for taking the accounts of the said Fund, and for the apportionment, division, and distribution of the said Fund; and for the ascertainment of the nature and numbers of the different claims on the said Fund, and of the persons having or entitled to make the said claims; and for the payment of the proper costs of the subscribers of the said Society, and of all parties conducting or otherwise concerned in the matter of the said petition and subsequent proceedings for winding-up the said Fund.

II. It shall be lawful for the said Court, in such way as they may think fit, to obtain the assistance of an Accountant or Actuary the better to enable the Court to determine any matter relating to the division and distribution of the Fund, and to act upon the certificate of such person; and in case it shall be deemed necessary to make any reference to the Master in Equity of the said Court in the matter of such petition, it shall be lawful for the said Court to order that the Master in Equity shall be at liberty in like manner to obtain the assistance of an Accountant or Actuary.

III. In the cases of pensioners or persons entitled to become pensioners who shall consent to commute their pensions, it shall be

lawful for the Court to order that the amounts to be paid in commutation, shall be settled, invested, or paid in such manner as will give the several persons therein interested the full benefit thereof.

IV. In the cases of pensioners or persons entitled to become pensioners, who shall refuse to commute their pensions, it shall be lawful for the Court to order a sufficient sum to be set apart out of the said Fund to provide for the due payment of such pensions. The said Court may also sanction and give effect to any arrangement which it may deem just and sufficient for the future payment of any commuted sum or uncommuted pensions, by any Life Insurance Company willing to undertake the payment of such pensions.

V. Guardians of minors, pensioners, and of minors, if any, entitled to become pensioners on the said Fund, shall have full power and authority to consent on their behalf to commute the pensions of the minors for a fixed sum; and the said Court shall have full power and authority to give effect to such consent, and to make such order as the said Court may deem just for the application of the said commuted sum for the future benefit of the infant; and if there be no guardian, the mother, during her widowhood, may act as guardian, unless the Court shall otherwise order, and, if necessary, the Court may appoint a guardian for any minor.

VI. In dividing and distributing the said Fund, every part thereof which shall not be awarded by the Court to members or representatives of deceased members, may, if the Court shall think fit, be applied for the benefit of pensioners or persons entitled to become pensioners, whether they shall consent to commute their interests or not.

VII. With a view to expedite the distribution of the surplus of the said Fund over and above what may probably be necessary to provide for the pensions, the said Court shall have full power and authority at any time to order payment of a dividend of the said probable surplus to the persons entitled to the same, although the exact surplus and the exact amount of charges may not then be ascertained.

VIII. For the purpose of winding-up the said Fund, and finally closing the accounts thereof, the like proceedings shall be had for the bringing in of claimants on the said Fund, as in ordinary administration suits for bringing in creditors and other persons; and claimants being pensioners or entitled to be pensioners, who may neglect to come in in due course, or within the time limited for that purpose, shall be deemed to have consented to commute their pensions; and a final distribution may be made of the said Fund.

Mode of bringing in claimants. and finally closing the accounts thereof, the like proceedings shall be had for the bringing in of claimants on the said Fund, as in ordinary administration suits for bringing in creditors and other persons; and claimants being pensioners or entitled to be pensioners, who may neglect to come in in due course, or within the time limited for that purpose, shall be deemed to have consented to commute their pensions; and a final distribution may be made of the said Fund.

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STATEMENT OF OBJECTS AND REASONS.

The explanation given by the late Mr. Ritchie on moving for leave to bring in the Bill on the 5th of March 1862, was thus reported :—

"He stated the Society which it was intended to dissolve was established by the Subordinate Medical Officers of Government in 1852 at Ferozepore, the object being to provide for their Widows and Orphans, and the pensions were to be payable out of the interest on the Capital. But during the mutiny all subscriptions stopped, and the affairs of the Society fell into so much confusion, that it was now necessary to afford relief by winding-up the affairs through the medium of the Supreme Court, in the manner adopted in 1856 in the case of the Bengal Mariners' and General Widows' Fund."

The Bill strictly follows the precedent of the Act XXIV. of 1856 for winding-up the Fund mentioned by Mr. Ritchie, and is adapted to meet a case which appears to be of a very similar description. After the Bill is introduced into the Council, its publication will afford

an opportunity to any subscriber who may not have been previously consulted to consider its provisions.

(Signed) CECIL BEADON.

3rd April 1862.

M. WYLIE,
Depy. Secy. to the Govt. of India,
Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th April 1862, and was referred to a Select Committee, who will make a report thereon after the 12th July next :—

A Bill to Amend Act X. of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal) so far as it relates to the Territories under the Government of the Lieutenant Governor of the North-Western Provinces.

Whereas it is expedient to amend Act X. of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal) so far as it relates to the Territories under the Government of the Lieutenant Governor of the North-Western Provinces; It is enacted as follows :—

I. In addition to the suits specified in Sections XXIII. and XXIV. of Act X. of 1859, the following suits shall be cognisable by the Collectors of Land Revenue under the provisions of the said Act, and, except in the way of appeal as provided in the said Act, shall not be cognisable in any other Court or by any other Officer, or in any other manner, that is to say :—

1st.—Suits by Lumberdars for arrears of Government Revenue payable through them by the co-sharers whom they represent.

2nd.—Suits by co-sharers in a joint undivided estate for their share of the profits of the estate after payment of the Government Revenue and village expenses, or for a settlement of accounts.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear of Revenue, or the amount of profits claimed, shall have become due, or if the suit be for an arrear of Revenue or for profits due at the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year to which the accounts relate, or, in the case of any claims for such settlement now existing, within one year from the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

III. In any suit falling under Section I. of this Act in which the Collector shall award a sum of money on account either of an arrear of Government Revenue or of profits, if the Collector shall consider that the sale of the share of the estate belonging to the party against whom the award is made is objectionable, and that satisfaction of the award may be made by a temporary alienation of such share, it shall be competent to the Collector to make provision for the satisfaction of the award, by transferring the share of the estate of the judgment-debtor to any of the other co-sharers for such period and on such terms as he may think proper, or he may make such other arrangement for the satisfaction of the award as the circumstances of the case will admit of, instead of proceeding to a sale of such share.

IV. Orders passed by a Collector under the last preceding Section shall be subject to revision by the Commissioner of the Division, but shall not be open to appeal to the Civil Court.

V. From the date of the passing of this Act, Section LXXXVI. of the said Act X. of 1859 shall cease to have effect in the Territories under the Government of the Lieutenant Governor of the North-Western Provinces, and the following Section is enacted in lieu thereof :—

“Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment-creditor, his agent, or mootkar, made at the time the decree is passed, or thereafter upon the written application of the judgment-creditor, his agent, or mootkar. Process of execution against the person or movable property of a debtor shall be in the form (E or F) contained in the Schedule to the said Act X. of 1859, or to the like effect.”

VI. Section CXII. of the said Act X. of 1859 shall be read as if the words “or where the rent of a puttee is not collected by a lumberdar, through the putteedar who is entitled to collect the rent” were added at the end of such Section.

VII. Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under Act X. of 1859 are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

VIII. If any person shall be arrested under Section CXLV. of the said Act X. of 1859, he shall be brought before the Collector with all convenient speed, and the

Collector shall proceed forthwith to try the case. If the case cannot be at once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Jail until the case is tried.

IX. This Act shall be read and taken, in the Territories under the Government of the Lieutenant Governor of the North-Western Provinces, as part of the said Act X. of 1859.

STATEMENT OF OBJECTS AND REASONS.

Act X. of 1859, which this Bill proposes to amend, confers original jurisdiction on the Revenue Courts in Bengal in all cases of dispute arising between landlord and tenant and between landlord and agent; but there is another class of cases of a somewhat analogous character which, as the Act is now framed, are not embraced by it. I allude to disputes arising in joint undivided estates between the lumberdar, who is the recognised representative of the other sharers in such estates, and, as such, pays the dues of Government and the co-sharers whom he represents, whether on account of the portion of Government revenue payable by such co-sharers, or any of them, or relating to the adjustment and distribution amongst the several sharers of the profits of the estate after payment of the Government revenue and the village expenses. The reasons which induced the Legislature to vest the Revenue Courts in Bengal with jurisdiction in the cases brought within their cognisance as Courts of first instance by the Act of 1859, seem to apply with nearly equal force to cases such as those just mentioned. The omission to include such cases in the Act was, I have reason to believe, simply an inadvertence. The omission was discovered by the

Board of Revenue for the North-Western Provinces before Act X. of 1859 became law, but it was not brought to my notice until after the passing of the Act, and there were particular reasons at the time which appeared to render it unadvisable to apply to the Legislature for an immediate alteration of the law. The first Section of the Bill is intended to supply the omission.

Section 112 of Act X. of 1859, which applies to distraint, provide first that no sharer in a joint undivided estate, shall exercise the powers of distraint except through a manager authorised to collect the rents of the estate on behalf of all the sharers; and secondly, that in putteedaree estates in the North-Western Provinces, distraint shall be made only through a lumberdar. The object of these restrictions is obviously to prevent two or more processes of distraint being taken out against the same crop by different shareholders possessing, not a separate, but only a joint interest in the land on which the crop is growing or was grown, and there can be no doubt that the restrictions are very proper. But the Board of Revenue for the North-Western Provinces have pointed out that while it would not be expedient to vest the powers of distraint in all putteedars, its limitation to lumberdars only is, in some instances, productive of inconvenience; that although the lumberdars are invariably responsible for the revenue which is paid through them, there are putteedaree estates in the North-Western Provinces containing puttees of which the rents are not collected by a lumberdar, but by putteedars, who are responsible to the lumberdar for their quota of the revenue and of the village expenses; that it would seem equitable that the power of distraint should be conferred on those who are entitled to collect the rent, and that, to this end, it would be sufficient to add to Section 112 the following words:—viz., "or where the rent of a puttee is not collected by a lumberdar through the putteedar who is entitled to collect the rent." I concur with the Board, and in the sixth Section of the Bill I propose to amend the existing law in the manner recommended by them.

The seventh Section is of a declaratory character, and has for its objects to remove doubts which have arisen as to whether it was intended that the decisions passed by Zillah Judges in regular appeal under Sections 160 and 161 of Act X. of 1859, from decisions of the Revenue Courts, should be open to special appeal to the Sudder Court. The point has, I understand, been determined in the affirmative by the Sudder Courts at Calcutta and at Agra, and I think there can be no doubt as to the correctness of their decision. An amendment of Act X. of 1859 being found necessary, it is considered advisable to give the force of law to the ruling of the Courts.

The only other Section of the Bill which I deem it necessary particularly to notice, is the one which proposes to give to the Revenue Courts, when making an award for an arrear of rent or revenue, power to grant immediate execution on the verbal application of the judgment creditor. This power has lately been given to the Civil Courts in all cases of debt, damage, and the like, to the amount of 500 Rupees, and it is considered that the same power may be properly possessed by the Revenue Courts in suits falling within their cognisance under Act X. of 1859.

Provisions similar to the last two mentioned by me are contained in a Bill to amend Act X. of 1859 now before the Legislative Council of Bengal. That Bill contains other provisions, some of them of a penal character, the extension of which to the North-Western Provinces is, I am happy to think, not called for by anything in the state of that part of the country.

It only remains for me to mention that it is proposed to restrict the Bill in its application to the Territories under the Government of the Lieutenant Governor of the North-Western Provinces.

26th March 1862.

(Signed) H. B. HARRINGTON.

M. WYLIE,

Depy. Secy. to the Govt. of India,

Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 9th April 1862, and was referred to a Select Committee, who will make a report thereon after the 12th July next:—

A Bill to Provide for the Registration of Assurances.

Whereas it is expedient to consolidate and amend the laws relating to the Registration of Assurances; It is enacted as follows:—

I. Regulation XXXVI. 1793 (*for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property*), XXVIII. 1795 (*for extending to the Province of Benares, Regulation XXXVI. 1793, entitled "A Regulation for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property"*), XVII. 1803 (*for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company*), Section XVII. Regulation VIII. 1805 (*for extending to the conquered Provinces situated within the Doab and on the right bank of the River Jumna, and to the territory ceded to the Honorable the English East India Company in Bundelcund by the Peishwa, such of the Laws and Regulations established for the internal government of the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company, as have not been already extended to those territories, and for revising and amending certain parts of the said Laws and Regulations*) so far as it relates to Regulation XVII. 1803, Section XXXII. Regulation XII. 1805 (*for the settlement and collection of the Public Revenue in the Zillah of Cutlack, including the Pergunnahs of Putespore, Kunnardichour, and Bograe, at present included in the Zillah of Midnapore*), Regulation XX. 1812 (*for modifying some of the provisions contained in the existing Regulations respecting the Registry of Deeds, and for establishing a Register of engagements for the delivery of Indigo*), and Regulation IV. 1824 (*to provide more effectually for the Office of the Register of Deeds*), of the Bengal Code; Regulations XVII. 1802 (*for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property*), and XI. 1831 (*to provide more effectually for the Office of Register of Deeds*), of the Madras Code; and Regulation IX. 1827 (*for establishing a Register of Title-Deeds, and a General Register of Deeds, Obligations, and other Writings in each Zillah subordinate to the Presidency of Bombay*), of the Bombay Code; and Acts XXX. of 1838, I. of 1843 (*for amending the law concerning the Registration of written conveyances and other instruments affecting titles and other interests to land*), XIX. of 1843 (*for amending the law respecting the Registration of certain Deeds*), IV. of 1845 (*to amend the law regarding the Registration of Deeds*), XVIII. of 1847 (*for curing the invalidity in the Registration of Deeds arising from the fact of having been registered by persons not duly appointed or on other than Court days*), and XI. of 1851 (*for the custody of Registers of Deeds in the Presidency of Bengal*), shall be repealed from and after the—day of—186—.

II. The local Government of every Presidency and General Register Office, place shall establish, within the territories subject to such

Government, at such place as to it shall seem fit, an Office to be called the General Register Office, and may appoint an Officer to the charge of such Office, who shall be called the Registrar General of the Presidency or place for which he is appointed, and who shall receive such salary as shall be authorised by the Governor General of India in Council. The local Government may declare and constitute the Board of Revenue, where there is a Board of Revenue, or any other Public Office,

to be such General Register Office, and all the provisions of this Act which apply to such Registrar General shall apply to such Board or other Office so declared and constituted.

III. The local Government shall establish in every District an Office to be styled the District Register Office, and also such number of Deputy Register Offices as, in the judgment of the local Government, may be necessary for the purposes of this Act.

IV. The Judge of the District Court, or, in the Presidency of Bombay, the Assistant Judge, where such Assistant Judge exists, shall be the District Registrar of the District in which such Court or Assistant Judge may have jurisdiction; and the Judges of the Civil Courts subordinate to the Judge of the District, and such other Public Officers as the local Government may select, shall be Deputy Registrars of such District.

V. It shall be lawful for the local Government to appoint such other persons, not being Public Officers, as such local Government shall see fit, to be Deputy Registrars, and, with the sanction of the Governor General of India in Council, to assign to the persons so appointed such salaries as to such local Government may appear necessary.

VI. Such divisions of Districts shall be assigned to the Deputy Registrars appointed under the last two preceding Sections as the local Government shall see fit, and the local Government may from time to time alter the limits of such divisions.

VII. In case of the death, or absence on leave of any Deputy Registrar, it shall be lawful for the District Registrar to appoint any person whom he may think proper to take temporary charge of the Office of such Deputy Registrar, and to register deeds in the same manner as if such person had been appointed to the Office by the local Government. In case of the absence of any District Registrar, or of a vacancy occurring in the office of any District Registrar, the Officer whose duty it is to carry on the Judicial functions of the Officer who by this Act shall act as District Registrar, shall, during such absence or vacancy, be the District Registrar.

VIII. It shall be lawful for the local Government, with the sanction of the Governor General of India in Council, to allow such Establishments to the General Register Office and to the District and Deputy Registrars as may be necessary for the purposes of this Act.

IX. The General Registrar and the several District and Deputy Registrars shall use a seal bearing the following inscription in English and in such other language as the local Government shall direct: "The Seal of the Registrar General" (or of the Registrar or Deputy Registrar of—).

X. The local Government shall provide for the Registry Books. Office of every District and Deputy Registrar such books as may be necessary for the purposes of this Act, and such books shall contain printed forms for the entries to be made therein, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified by the Officer by whom such books shall be supplied. The local Government shall further supply the Office of every District Registrar with a fire-proof box to be used as hereinafter provided.

XI. No Instrument executed after the—day of—186—, which purports or operates to create, transfer, or extinguish any right, title, or interest of the value of One hundred Rupees or upwards in any immovable property, not being a lease for a period not exceeding one year, and no Instrument executed after the said date, which acknowledges the receipt or payment of any consideration on account of the creation, transfer, or extinction of any right, title, or interest of such value as aforesaid in any immovable property (not being such a lease as aforesaid), shall be received in evidence in any civil proceeding in any Court of Justice, or shall be acted on by any Public Officer unless the same be registered within the time prescribed by this Act.

XII. Any of the following Instruments executed after the said—day of—186—, may be registered under this Act:—

Any Instrument which purports or operates to create, transfer, or extinguish any right, title, or interest of less value than One hundred Rupees in any immovable property.

Any Instrument which acknowledges the receipt or payment of any consideration on account of the creation, transfer, or extinction of any right, title, or interest of such value as aforesaid in any such immovable property.

Any lease for a period not exceeding one year.

Any Instrument which purports or operates to create, transfer, or extinguish any right, title, or interest in any moveable property.

Wills, Codicils, and Authorities to adopt.

Decrees of Courts and awards of Arbitrators.

Contracts, bonds, deeds, and other obligations.

XIII. No Instrument of either of the descriptions mentioned in Section XI. which shall be executed after the said—day of—186—, except Instruments executed within three months from that date, shall be accepted for registration, unless presented for that purpose to the proper Officer within three months from the date of the execution thereof; and no Instrument of any of the descriptions mentioned in the last preceding Section otherwise than a Will, Codicil to a Will, or authority to adopt a son, which shall be executed after the said—day of—except as aforesaid, shall be accepted for registration, unless so presented within six weeks from the date of the execution thereof.

XIV. The parties, their heirs, representatives, or assigns to any Instrument of the descriptions mentioned in Sections XI. and XII. of this Act, which shall have been executed before the said—day of— or before the expiration of three months from the time when this Act shall come into operation, may have such Instruments registered in the manner provided by this Act, if such Instrument shall be presented for registration within twelve months from and after the time when this Act shall come into operation. If any party to the Instrument be dead, the heirs, representatives, or assigns of such party shall be permitted to testify the execution of such Instrument on satisfying the District or Deputy Registrar of his or their identity and representative character, as provided in Section XXIV. of this Act.

XV. Any Will, Codicil to a Will, or authority to adopt a son after the decease of the person giving such authority, may at any time be registered in the manner hereinafter provided by the person making such Will or Codicil or giving such authority.

XVI. Every Instrument to be registered under this Act, not being a Will, Codicil to a Will, or an authority to adopt a son, shall be presented at the Office of the Deputy or District Registrar in which such Instrument is to be registered by all the parties thereto, or by the heirs, representatives, or assigns of such parties, or by the authorised Agents of such parties, or of their heirs, representatives, or assigns under a power of attorney, special or general. But no such power shall be recognised for the purposes of this Act unless it shall have been deposited by the person executing the same in the Office of the District or Deputy Registrar in which such Instrument is presented for registration, or shall have been delivered personally by such person to such Deputy or District Registrar.

XVII. Any Instrument which purports or operates to create, transfer, or extinguish any right, title, or interest in any immovable property, and any Instrument acknowledging the receipt or payment of any consideration on account of the creation, transfer, or extinction of any right, title, or interest in any immovable property, shall, when presented for registration, be registered in the Office of the Deputy Registrar within whose jurisdiction such immovable property is situate; and any Instrument which purports or operates to create, transfer, or extinguish any right, title, or interest in any moveable property shall, when presented for registration, be registered in the Office of the Deputy Registrar within whose jurisdiction such Instrument is executed, or within whose jurisdiction the purchaser of such moveable property, in the case of goods purchased on contract, shall reside; or at any Registry Office at which all the parties to any such Instrument shall desire the same to be registered. Every other Instrument mentioned in Section XII., except as hereinafter provided, shall be registered in the Office of the Deputy Registrar within whose jurisdiction one of the parties bound by such Instrument, or, in case of bonds or obligations, the obligor shall reside. Provided that Instruments in the English language shall be registered only in the Office of a District Registrar.

XVIII. Every Instrument affecting immovable property situate in more than one Division of a District, shall be presented for registration to the District Registrar of such District, who shall forward a copy, endorsed in the manner provided by the last Section, to the Deputy Registrar of each Division of his District in which any part of such property is situate, and such Deputy Registrar shall thereupon register the same as if such Instrument had been presented to him for registration in the first instance.

XIX. When any Instrument affecting immovable property is registered under this Act in a District in which the whole of the property to which the Instrument relates is not situate, it shall be the duty of the District Registrar or Deputy Registrar, as the case may be, of the Office in which such Instrument is registered, to forward to the District Registrar of the District in which any other part of such property is situate, a copy of such Instrument as registered in his Office, endorsed with an attestation stating the date on which it was registered and its number in his Register Book, and the District Registrar of any District receiving such copy so forwarded and endorsed, shall register the same as if it had been presented to him in the first instance, and shall forward a copy endorsed with such attestation as aforesaid to the Deputy Registrar of each Division of his District in which any part of such property may be situate, and such Deputy Registrar shall register the same as if the Instrument had been presented to him in the first instance.

XX. The fees mentioned in the Schedule to this Act shall be payable for the registration of Instruments under this Act, and no Instrument shall be accepted for registration until the proper fee has been paid.

XXI. All fees received under the provisions of this Act shall be remitted to the Collector's Treasury, or to such other Treasury as the local Government shall direct, under such rules as the local Government shall from time to time issue, and be credited to Government.

XXII. In every General Register Office, and in the Office of every District and Deputy Registrar, four Register books shall be kept, which shall be entitled—

- 1.—Register of absolute transfers of immovable property;
- 2.—Register of other transfers of immovable property;
- 3.—Register of Decrees and Orders of Court;
- 4.—General Register;

and in the General Register shall be entered all Instrument not included under Title-deeds, Mortgages, Decrees, Orders, or Leases, and not required to be entered in such other Registers as are hereinafter provided. All entries made in such books shall be numbered in a consecutive numerical series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. Whenever any Instrument, for the registration of which application may be made, refers to immovable and moveable property, it shall be entered in Book No. 4 and also in Book Nos. 1, 2, or 3, as the case may be.

XXIII. At the close of each year, two Indices shall be prepared for each Register, one containing the name of every party to the Instrument registered, and the other, in the case of immovable property, containing the description of the property, its name, and designation, if any, and the name of the place where situated. These names shall be entered in alphabetical order, and shall show the page in the Register where the Instrument is registered.

XXIV. On the parties to any Instrument, their heirs, administrators, or assigns, or the authorised agents of such parties, as provided by Section XVI. of this Act, appearing before the Deputy or District Registrar for the purpose of obtaining the registration of such Instrument, he shall proceed to inquire whether such Instrument was executed or not by all the parties thereto. If all the parties to the Instrument appear personally before him, and are personally known to him, or in case they are not personally known to him, if they satisfy him by such evidence as he deems sufficient, that they are the parties they represent themselves to be, and if they all admit the execution of the Instrument, he shall register the same in the manner hereinafter provided. If an authorised Agent of any party shall attend in the absence of such party, and shall admit the execution of the Instrument by such party, the Deputy or District Registrar shall satisfy himself by such evidence as he shall deem sufficient of the authority of such Agent, and on being satisfied as aforesaid, he shall register such Instrument in the manner hereinafter provided. If all the parties to an Instrument shall not attend, but the heirs, administrators, or assigns of any party shall attend, the Deputy or District Registrar shall satisfy himself by such evidence as he shall deem sufficient of the right of the persons appearing to represent such party, and of the execution of the Instrument by such party, and if they shall appear by Agent, of the authority of such Agent. The Deputy Registrar shall

enter in the Register Book the names in full of all the persons whose evidence he may take to prove such identity; and for obtaining the appearance and for the examination of such persons, he shall have the same powers as are vested in the Civil Courts for obtaining the appearance of witnesses, and for taking evidence by any Law for the time being in force.

XXV. No Instrument shall be accepted for registration, if any interlineation, erasure, or alteration shall appear on such Instrument, unless the parties appearing to register the same shall attest with their signatures such interlineation, erasure, or alteration; and it shall be the duty of the District or Deputy Registrar, at the time of registering such Instrument, to make a note in the Register of such interlineation, erasure, or alteration.

XXVI. Every Instrument admitted to registration shall be entered in its appropriate book according to the order of its presentation, and shall be numbered accordingly. The entry made in the Register shall show the year, month, day, and hour of presentment, the character of the Instrument presented for registration, the names of the parties to the Instrument in full, and when the Instrument shall have been presented by the agents, or by the heirs, representatives, or assigns of any party, the names of such agents, heirs, representatives, or assigns, and the names in full of any person whose evidence may have been taken under Section XXXIV. of this Act, after which the Instrument shall be transcribed in full. To every entry made as is above prescribed, the signature of every party to the Instrument shall be taken, or the signature of his Agent, heir, representative, or assign, and of any person who may have testified to the identity of every such party or person, and the District or Deputy Registrar shall affix his own signature to the entry.

XXVII. The Instrument shall then be returned to the party who may have presented the same for registration, with an endorsement inscribed thereon showing the date of registration, the number of the book in which such registry shall have been made, and the page of the book on which such entry shall appear, which endorsement shall be certified by the seal and signature of the District or Deputy Registrar, and the Instrument thus endorsed shall be *prima facie* proof, on the production thereof in any Court of Justice, that such Instrument has been duly registered in the manner provided in this Act. Provided that it shall be competent to the Court to require evidence of such registration, if it shall see sufficient cause for doing so.

XXVIII. Every Instrument affecting immovable property, and not being a Will, Codicil to a Will, or authority to adopt a son presented for registration, shall be accompanied by a copy, and the District or Deputy Registrar, after satisfying himself by careful examination that the original and copy are in every respect and particular alike, shall, within twenty-four hours after such registration, return the original thereof endorsed, as provided in Section XXVII. of this Act, to such of the persons who presented the same as shall be entitled thereto and shall require the return thereof.

XXIX. A copy of every original Instrument affecting immovable property registered in the Office of any Deputy Registrar shall, within three days, be forwarded with an endorsement attesting the date on which it was registered and its number on the Register Book of such Registrar, to the District Registrar, and a copy of every such Instrument registered in the Office of any District Registrar, whether originally or by transmission from the Office of a Deputy Registrar, shall within one week be forward-

ed with an endorsement attesting the date on which it was registered and its number in the Register Book of such District Registrar to the General Register Office.

XXX. For every copy required to be forwarded under the last preceding Section, or under Section XIX. of this Act, the same fee shall be paid as for the registration of the original Instrument.

XXXI. On the receipt in the General Register Office of any transcript of any entry made in any Register by any District Registrar, the same shall be entered in the Book Nos. 1, 2, 3, or 4, as the case may be.

XXXII. When a Decree or Order affecting any Instrument relating to immovable property which shall have been registered under this Act, shall be passed by any Civil Court, and shall transfer, limit, or extinguish the right, title, or interest of any person in such immovable property, and such Instrument is before the Court passing the Decree or Order, such Court shall cause a memorandum of such Decree or Order to be sent to the District or Deputy Registrar in whose Office such Instrument shall have been registered.

XXXIII. When any Civil Court shall by a Decree or Order declare any Instrument relating to immovable property which shall have been registered under this Act, or any Will, Codicil, or authority to adopt, which shall have been registered under the provisions of this Act, to be invalid, or a forgery, such Civil Court shall cause a memorandum of such Decree or Order to be sent to the Office of the District Registrar or Deputy Registrar in whose Office such Instrument, Will, Codicil, or authority to adopt shall have been registered.

XXXIV. Whenever any memorandum under either of the two last preceding Sections is received by any District or Deputy Registrar, a transcript thereof shall immediately be made in the margin of that part of the book in which there is any Register of the immovable property, Will, Codicil, or authority to adopt, affected by such memorandum.

XXXV. Any person wishing to register a Will, a Codicil to a Will, or any Instrument giving authority to the widow of such person to adopt a son after his decease, may deliver such Will, or Codicil, or such Instrument in a sealed cover, superscribed with the name of the depositor and the nature of the Instrument, to the District Registrar within whose jurisdiction such person may reside, who shall, if such person be not personally known to him, satisfy himself of the identity of such person in the manner provided in Section XXIV. of this Act.

XXXVI. On receipt of such sealed cover superscribed as is above provided, and on being so satisfied as aforesaid, the District Registrar shall enter the same in the Register of the Deposits of Wills, Codicils, and Instruments giving authority to adopt, transcribing therein the superscription on such sealed cover and noting in the Register and on the cover the year, month, day, and hour of such receipt, together with the name of the depositor and the names of the persons testifying to the identity of such depositor, and shall then place such sealed cover in a strong fire-proof box to be supplied by Government for that purpose.

XXXVII. Whenever, on the death of any depositor of any sealed packet, application may be made to any District Registrar to open such packet, such District Registrar, after satisfying

himself that such depositor is dead, shall, in the presence of the person making such application, open such sealed packet, and shall enter a copy thereof, to be made at the expense of the applicants, in the Register of Wills, Codicils, and Instruments giving authority to adopt. The District Registrar shall thereupon re-deposit the original Will, Codicil, or Instrument until required to produce the same in a Court of Justice.

XXXVIII. Every District Register shall, in addition to the books prescribed in Section XXII. of this Act, keep two books, to be entitled—

Register of deposits of Wills, and Codicils to Wills and Instruments giving authority to adopt.

Register of Wills, Codicils, and Instruments giving authority to adopt.

XXXIX. An appeal shall lie from any proceeding of any Deputy Registrar under this Act if presented to the District Registrar within thirty days after the performance of the Act appealed against, and the District Registrar shall have authority to call before him the parties to the Instrument in connection with the registration of which such appeal has been made, the persons who gave evidence before the Deputy Registrar, and any other person whose evidence, in the opinion of such District Registrar, may be necessary to a right understanding of the matter in appeal. For procuring the attendance of parties and witnesses, the District Registrar may exercise any or all the powers given to any Judge for procuring the attendance of witnesses by any law now in force or that may hereafter be enacted.

XL. No appeal shall lie from any proceeding or decision of a District Registrar under this Act.

XLI. The Registers in the General Register Offices, and in the Offices of the District and Deputy Registrars, shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry in such Registers shall be given to all persons applying for such copies. A fee of Eight annas shall be paid by any person applying to inspect any Register before such Register is opened to his inspection, and a fee of One rupee over and above the charge of making the transcript shall be paid by every person requiring a copy of any entry in any such Register. The charge to be made for making copies of entries in the Register shall be regulated from time to time by the General Register Office.

XLII. A registered Instrument shall operate from the time from which Instruments shall operate. the time from which it would have commenced to operate if no registration had been required or made, and not from the time of its registration.

XLIII. Priority of title shall be given to Instruments affecting immoveable property in the date of their presentation for registration; and when two or more Instruments shall have been presented for registration at the same time, they shall take precedence according to the date of their execution. But as delay may occur in the negotiation of a sale or other contract, and by reason of the absence of parties the written transfer of property may be delayed, any person may, after the operation of this Act shall have commenced, execute and register a caveat. When such caveat shall have been presented, it shall operate to prevent the registration of any Instrument against which it is presented, having any effect within the period of six months from the date of the entry of such caveat. Any Instrument registered by or on behalf of the person by whom the caveat shall be entered, shall be entitled to the same preference and advantage as if such Instrument had been registered at the time when such caveat was entered. The same fee shall be paid

on the registration of every caveat as would be chargeable on the registration of the Instrument to which such caveat may refer.

XLIV. Every caveat entered as provided in the last preceding Section, shall be copied in the Register and entered in the Index to the Register, as though it were the complete Instrument for the protection of which it may have been entered.

XLV. Nothing in this Act shall be held to require the registration of any Instrument to which Government, or any Board, Commission, Court, or Public Officer may in a public capacity be a party.

XLVI. No action on an Instrument which shall have been executed after the passing of this Act, and which, though it might have been registered in the manner provided by this Act, shall not have been so registered, shall be entertained, unless such action, if it relate to immoveable property, shall be brought within two years, or, if it be relative to moveable property, within six months from the date when the cause of action arose. Provided that nothing in this Section shall authorise any Court to receive any unregistered deed, the registration of which to make it admissible in evidence is required by this Act. This Section shall not apply to Wills, Codicils, or Instruments giving authority to adopt.

XLVII. If any person shall wilfully make any false statement in any deposition made by him before any Officer acting execution of this Act, in any proceeding or inquiry under the provisions of this Act, he shall be deemed guilty of the offence of giving false evidence as defined in Section 191 of Act XLV. of 1860 (the Indian Penal Code).

XLVIII. The Registrar General shall have power from time to time to frame Rules for the guidance of the District and Deputy Registrars not inconsistent with the terms of this Act. The Rules so framed shall be submitted to the local Government, and after they shall have been approved by the local Government, they shall be published in the Official Gazette, and shall have the same force as if they were inserted in this Act.

XLIX. The registration of all Instruments under this Act shall be made only at the Public Office or Court of the Officer whose duty it shall be to register the same.

L. Except as provided in Section XI. of this Act, the provisions of this Act shall not be in force in any place within the jurisdiction of the Courts established by Royal Charter.

LI. In the construction of this Act, unless the contrary appear from the context, the words "local Government" shall denote the person or persons authorised by law to administer the Executive Government in any part of British India; the words "year" and "month" shall denote a year or month by the British Calendar; and 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.

LII. This Act shall take effect from the said day of 1862.

Commencement of said Act.

SCHEDULE

OF FEES PAYABLE FOR THE REGISTRATION OF
INSTRUMENTS UNDER THIS ACT.

1st Class.

When Registration is required under Section XI. of this Act—

For any absolute transfer of any interest in immovable property ..	Rs. 4
For any other transfer of any immovable property not being a lease for a period less than one year ..	3

2nd Class.

When Registration is permitted under Section XII. of this Act—

For any transfer of any interest in immovable property less in value than 100 Rupees ..	Rs. 2
Any lease for a period less than a year ..	1
Any Instrument relating to moveable property of the value of 100 Rupees or upwards ..	2
If the value be less ..	1
Wills, Codicils, and authorities to adopt ..	4
Decrees of Court and awards of arbitrators ..	2
Bonds, deeds, and other obligations, if the amount or value of the money or property secured thereby be 100 Rupees or upwards ..	2
If the amount or value be less ..	1
Contracts or agreements when the value of goods contracted for, or the penalty for non-performance is more than 100 Rupees ..	1
When the value or penalty is less than 100 Rupees ..	As. 4
When the value or penalty is less than 50 Rupees ..	1
If the contract be an engagement to cultivate, provide, or derive any article of commerce, in consideration of advances made—	
When the advance is 100 Rupees or upwards ..	Rs.
When less than 100 Rupees, but not below 50 ..	As. 4
When below 50 Rupees ..	1
Any other Instrument ..	Rs. 1

STATEMENT OF OBJECTS AND REASONS.

In the preparation of this Bill the provisions of the several projects of law on the subject of Registration which have been from time to time published for general information, and the various communications which have been received concerning those projects, have been consulted.

The expediency of a law to compel Registration of all transfers of land was suggested by the Court of Directors in a Despatch* addressed to the Governor General in Council, shortly after the passing of the Charter Act 3 and 4 William IV. c. 85 in the following terms—"We would also suggest the establishment of Offices for the Registration of all transfers of land or any interest in land, such Registration to be compulsory under such penalties as may appear to you requisite."

Since that time the subject of a Registration law frequently received great consideration in the Legislative Council, either in the form of proposed amendments of the various Regulations already in operation in the several Presidencies, or in the form of a new or consolidated law.

During the years 1841-42, a Draft Act "for consolidating, amending, and extending the law relating to the Registration of Assurances" was prepared by Mr. Amos.

This Draft Act, after having been published and re-published and finally revised with great care, was laid aside, with the exception of one of its provisions, which was passed into law as Act I. of 1843.

In 1849, the Lieutenant Governor of the North-Western Provinces forwarded the draft of a law prepared by the Judges of the Sudder Court, proposing various amendments in the existing Registration Laws of the Bengal Presidency. No steps were taken upon this draft, because it was at that time in contemplation to revise and consolidate the several Regulations and Acts then in force.

In 1852, the subject was again brought forward, and an elaborate and comprehensive scheme was proposed by Sir Charles Jackson, then Officiating as Fourth Ordinary Member of Council, in the shape of a Draft Act "for the Registration of Assurances in the Territories under the Government of the East India Company," which was published for general information.

In 1853, an investigation into the system and practice of Registration of Deeds in the North-Western Provinces, undertaken by Mr. C. B. Thornhill pursuant to instructions from the Lieutenant Governor, resulted in the preparation by that gentleman of a new Registry Law adapted to the requirements of the North-Western Provinces.

In 1855, a petition* was presented to the Legislative Council by Mr. Archibald Grant, the Solicitor to the

East India Company, praying that a Draft Act for the Registration of Assurances prepared by him, and which accompanied his petition, might be passed.

Lastly, in 1858, the Judges of the Sudder Court at Madras prepared the draft of a law on this subject.

The several projects of law which have been enumerated, differ considerably from each other in their scope and object. Some of them are confined to a registry of transfers of immovable property, others include also transfers of moveable property, and further extend to Decrees and Orders of Courts, to Wills and authorities to adopt. Registration is in express terms made compulsory by some of these projects; others provide that documents not registered shall not be admissible in evidence in Courts of Justice; while by others certain advantages are conferred on registered documents, but Registration is not made essential to their validity. In the conflict of the many opinions which have been elicited by these several proposals, it is difficult to determine with certainty what are the principles on which a Registration Law for British India should be based, and by what detailed provisions the beneficial operation of such a Law may be secured. The present Bill contains various provisions taken from these several projects of law, and the following are the leading principles on which the measure is framed.

It is clear that even under the present laws Registry Offices have not been established in sufficient numbers to prevent inconvenience and loss of time to persons who desire to register documents. To what extent such Offices ought to be multiplied under the new law must depend in great measure on the extent to which Registration is to be made compulsory. If Registration be made necessary to the admission in evidence of any Instrument affecting the transfer of immovable property above the value of 100 Rupees, and if the limit of time within which an action can be brought on any unregistered Instrument affecting any property, moveable or immovable, be reduced, it is essential that persons making contracts concerning such property should have convenient means to register them. Without the establishment of numerous Registry Offices such a law as is now proposed would not only fail of effect, but would occasion great mischief and hardship.

The Bill authorises the local Governments to appoint District and Deputy Registrars; for the latter Office, not only Mooniffs, Tuhseeldars, and other public Officers, but also persons not in the public service may be selected. A considerable multiplication of Registry Offices

will call for the creation of some controlling authority (whether the Revenue Board, as the Bill suggests, or a single Officer) having power to make rules to secure uniformity in the proceedings of so numerous a body of Officers.

In the written communications to which reference has been made, there is a great preponderance of opinion in favour of a compulsory Registration of all documents relating to landed property; but on so important a matter it may be well to proceed tentatively, and the present Bill proposes only so far to make compulsory the Registration of Instruments affecting real property as to declare that no such unregistered Instrument shall be admitted in evidence in any Civil Court of Justice if the right or title transferred shall be of the amount of 100 Rupees. The Registration of leases for short terms, and of Instruments affecting real property of less value than 100 Rupees, will be optional, as will also that of Instruments affecting moveable property, but suits brought on the former class of Instruments if unregistered will under this Bill, be cognisable only if instituted within two years after the cause of action shall have arisen, and on the latter if brought within six months.

The reasons for a compulsory Registration of transactions relating to moveable property are to some extent the same as those advanced in favour of the Registration of transfers of land. It is of great importance, not only to the parties to contracts themselves, but to the public generally and to the due administration of justice, that there should exist some faithful written record of all such dealings as may ultimately become matters of litigation in Civil suits. At present, from the prevalence of forgery and perjury, and also it is to be feared from the degree of success which has been found to attend the use of fabricated evidence, no transaction, however honest in itself, can be deemed absolutely secure and free from the risk of being misrepresented or falsified when brought into a Court of Justice. If the Court is not imposed on by false evidence, the time of the Judges is needlessly occupied.

Adverting to the proposal of a compulsory Registration of all transactions, and having in view especially the prevalence of forged bonds, Mr. Thornhill in his report observes:—"even if the proposed measure should entail some vexation on the proper class of borrowers, it will be infinitely less than the ruin to which they are exposed by the present state of the law, and from which they would hereafter be protected.

"Now, it is only necessary for a Bunya to produce a bond, and bring forward two witnesses to its execution. The evidence is difficult to be refuted, and the defendant is cast. This could not occur if the public Registration of the bond soon after its execution, and by the party most interested, was necessary to its validity.

"But it is not necessary that the Registration of these small bonds should be vexatious, and all objection to the measure would probably be removed by the establishment of a Registry within an easy day's journey of every village."

But it has, on the whole, been thought better to moderate the stringency of the law of Registration on its first introduction, and to leave its extension to some future time, when the people shall have become used to its provisions and sensible of its great advantages.

It is important that the act of Registration should follow closely upon the transaction itself which is to be recorded. The authenticity of the document is thus secured, and all temptation to subsequent forgery and perjury is removed.

In the report just quoted, Mr. Thornhill observes, "that in many of the large mercantile Towns, transactions involving large sums of money are completed without the execution of any written Instrument whatever; the parties trust implicitly each to the good faith of the other, and consequently deem any additional security

superfluous; should any circumstances induce a subsequent want of confidence on the part of the lender, the only mode in which recovery of the debt can be had in a Civil Court is the fabrication of forged Instruments antedated to correspond with the period of the transaction, and supported by the testimony of perjured witnesses.

"To such an extent is this system carried on that the purchase of stamp paper from the Government vendors, to be retailed for such occasions, has become a regular trade."

To check such frauds, a time should be limited within which the document must be registered; the Bill allows three months for this purpose in the case of Instruments affecting real property of the value of 100 Rupees, and six months in all other cases.

Ordinarily the District within which the property or the larger portion of it is situate, should be the place of Registry for immoveable property; but it is also necessary to provide for the case of a transfer made by persons at a distance from the transferred property, as when a purchase is made in one of the Presidency Towns of land situate in a remote province. But in every case, it should be an inflexible rule that every Deed or Instrument affecting lands, wherever such a document may be presented for Registration, should appear in the appropriate register book and indices of the District or place where the land is situate. The multiplication of Registry Offices will prove rather an obstruction than an aid to the investigation of the title of land, if sufficient provision be not made for bringing together in one Office in the District all registered documents concerning the same land.

Documents concerning moveable property may, by the Bill, be registered at any Office most convenient to the contracting parties: if they are not agreed, Registration may be effected at the place where the contract is entered into, or at the place where the purchaser, grantee, &c. resides.

The personal attendance of the parties before the Registrar at the time when the Instrument is presented for Registration will tend to prevent frauds. It may be supposed, that Deputy Registrars will generally, from their own private knowledge, be enabled to identify the parties thus appearing; but if necessary such identity must be otherwise established. Provision is, however, made in the Bill for parties being represented by their duly authorised agents.

A document otherwise valid will, when registered, be preferred to all subsequently registered documents affecting the same land.

Provision is made in the Bill for the optional Registration of Wills, Codicils, and authorities to adopt a son, and as regards Wills it is proposed to adopt the practice followed in England, and to retain the original of all registered Wills, so that they may at any future time be produced in Court if any dispute should arise as to their authenticity.

The fees for Registration, which are entered in a Schedule to the Bill, have been purposely fixed low: it is very important that Registration should be encouraged, and that the amount of fee should, in no case, tempt parties to run the risk of non-registration. It is desirable to afford facilities for a general Registration, and to provide such advantages to registered Instruments at the cost of so low a fee and of so little trouble and inconvenience that Registration may not be unpopular with any class of the community, and be generally resorted to even when left optional by the Law.

(Signed) H. FORBES.

22nd January 1862.

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