



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

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 *Separate Paging is given to these Supplements, in continuation from one to the other, that the Bills may be collected into a separate Compilation.*

HOME DEPARTMENT (Legislative).

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 26th February 1862, and was referred to a Select Committee who will make a report thereon after the 1st of June next:—

A Bill to authorise the punishment of whipping in certain cases.

WHEREAS it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; it is enacted as follows:—

I. In addition to the punishments described in Section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Whipping added to the punishments described in Section 53 of the Penal Code.

Offences punishable with whipping.

II. Whoever commits any of the following offences may be punished with whipping, that is to say:—

1. Giving false evidence, as defined in Section 193 of the Indian Penal Code.
2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.
3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.
4. Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code.
5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.
6. Rape, as defined in Section 375 of the said Code.

7. Unnatural offences, as defined in Section 377 of the said Code.

8. Theft, as defined in Section 378 of the said Code.

9. Theft in a building, tent, or vessel, as defined in Section 380 of the said Code.

10. Theft by a clerk or servant, as defined in Section 381 of the said Code.

11. Theft after preparation for causing death or hurt, as defined in Section 382 of the said Code.

12. Extortion by threat, as defined in Section 388 of the said Code.

13. Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.

14. Robbery or Dacoity, as defined in Sections 390 and 391 of the said Code.

15. Attempting to commit Robbery, as defined in Section 393 of the said Code.

16. Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.

17. Dishonestly receiving stolen property, as defined in Section 411 of the said Code.

18. Dishonestly receiving property stolen in the commission of a Dacoity, as defined in Section 412 of the said Code.

19. Habitually dealing in stolen property, as defined in Section 413 of the said Code.

20. Lurking house-trespass, or house-breaking, as defined in Sections 443 and 446 of the said Code, in order to the committing of any offence punishable with whipping.

21. Lurking house-trespass, or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping.

22. Forgery, as defined in Section 463 of the said Code.

23. Forgery of a document, as defined in Section 466 of the said Code.

24. Forgery of a document, as defined in Section 467 of the said Code.

25. Forgery for the purpose of cheating, as defined in Section 468 of the said Code.

26. Forgery for the purpose of harming the reputation of any person, as defined in Section 469 of the said Code.

III. In the case of an adult, that is, of a person who appears to be more than sixteen years of age, the punishment of whipping shall not exceed fifty stripes. In the case of a youth, that is, of a person who appears to be not more than sixteen years of age, the punishment of whipping shall not exceed ten stripes. No female shall be punished with whipping.

Exemption of Females.

IV. The punishment of whipping may be in addition to, or in substitution of any other punishment to which offenders are liable under the provisions of the Indian Penal Code for any of the offences herein before mentioned. Provided that no person who may be sentenced to death, or to transportation, or to Penal Servitude, or to imprisonment for more than five years, shall be also punished with whipping.

Proviso.

V. The first five Sections of this Act shall be read and construed as part of the Indian Penal Code.

Construction.

VI. A sentence of whipping, passed by any Court superior to the Magistrate of a District, may be either in addition to or in substitution of any punishment to which the offender is liable under the provisions of the Penal Code. A sentence of whipping passed by any other Court or Officer shall be in substitution of the punishment to which the offender is liable under the provisions of the said Code. No sentence of whipping shall be passed by any Officer inferior to a Subordinate Magistrate of the first class, unless he shall have been expressly empowered by the Government to pass such sentences.

Officers inferior to Subordinate Magistrate of the 1st class not to pass sentence of whipping unless expressly empowered by Government.

VII. When the punishment of whipping is awarded in addition to imprisonment by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court.

VIII. In the case of an adult, the punishment of whipping shall be inflicted on the bare back with a cat-of-nine-tails, and in the case of a youth it shall be inflicted in the way of school discipline with a light rattan. The punishment shall be inflicted in the presence of a Justice of the Peace, or of an Officer authorised to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence shall otherwise order, in the presence of a Medical Officer.

IX. No sentence of whipping shall be carried into execution, unless a Medical Officer, if present, certifies, or unless it appears to the Justice of the Peace or other Officer present, that the offender is in a fit state of health to undergo the punishment; and if, during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be stayed.

Not by instalments.

No sentence of whipping shall be executed by instalments.

X. In any case in which, under the preceding Section of this Act, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it, and the said Court may, at its discretion, either order the discharge of the offender, or sentence him in lieu of whipping to imprisonment for any period in addition to any other punishment to which he may have been sentenced for the same offence; provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

Procedure if punishment cannot be inflicted under the last section.

XI. Sections VI to XI of this Act, both inclusive, shall be read and construed as part of the Code of Criminal Procedure.

Construction.

STATEMENT OF OBJECTS AND REASONS.

IN the Penal Code, as it was originally prepared by the Indian Law Commissioners, flogging was not placed in the list of punishments. Corporal punishment had then recently been abolished in Bengal, except as a means of enforcing jail discipline; and, although it continued to be a legal punishment in Madras and Bombay, and might also be inflicted on European British subjects in any part of India, under the Statute 9th, Geo. IV. c. 74, the Commissioners, while admitting that in some cases it was a proper punishment, were unwilling to advise the Government to retrace its steps, and to re-establish throughout India a practice which had already been discontinued in one of its Provinces.

In 1844, corporal punishment was revived in Bengal in cases of petty larceny, and in all cases in which the offenders were of tender years; and in 1858, in consequence of the destruction of jails during the mutiny, this punishment was extended for two years to other crimes.

In every Non-Regulation Province which has been added to the British Empire, corporal punishment has been introduced.

Therefore, up to the date on which the Penal Code came into operation, flogging was legal punishment in certain cases in all parts of India, and for all classes of offenders.

The Select Committee, to whom the Penal Code was referred by the Legislative Council, included flogging among the punishments to be provided by the Code, but it was struck out as the Bill passed through the Committee of the whole Council, because it was thought that local Officers and the public should have an opportunity of expressing their opinions as to the expediency of adopting this mode of punishment, and that the passing of the Code should not be delayed on that account. At the same time a Select Committee was appointed to report on the punishment of flogging, and to prepare such Bill as they might consider necessary.

In due time the Committee submitted a Bill, providing that the punishment of flogging should be inflicted under certain restrictions in the case of degrading offences, and this Bill, considerably modified in its details, was eventually passed by the Council, but did not receive the Governor General's assent.

The Criminal Law Consolidation Statutes passed in the last Session of Parliament provide for the punishment, by whipping, of persons under sixteen years of age for larceny, felony, and other crimes.

The present Bill is framed on the principle of that passed by the Legislative Council, but differs somewhat in details.

The word whipping has been substituted for flogging, as being more in accordance with the language of the Acts of Parliament and more suitable to the kind of punishment it is proposed to inflict, and the mode in which it is to be inflicted.

The crimes for which it is proposed that the punishment of whipping may be awarded are the same as those to which it was made applicable by the former Bill, with the addition of Dacoity.

The award of whipping as a punishment is in no case obligatory on the Court before which an offender is convicted of any of these crimes. It is left to the discretion of the Court to pass a sentence of whipping or not according to circumstances. The punishment may be awarded by any Court, or by any Magistrate not being inferior to a Subordinate Magistrate of the first-class. It is thought that any Officer who has been deemed fit to award a sentence of imprisonment up to six months, and fine up to two hundred Rupees, may safely be entrusted with the discretion to award a sentence of whipping.

Except in cases in which juvenile offenders are concerned, the cat-of-nine-tails is substituted for the rattan, and the punishment is limited to fifty stripes on the bare back. It is believed that a whipping inflicted in this manner on an adult while equally efficacious for its immediate purpose, is less likely to be injurious in its effects than flogging with a rattan. Juvenile offenders, it is proposed, may be punished, as under the Law of 1844, with not more than ten stripes of a light rattan in the way of school discipline.

A Clause is added to provide that where, in consequence of the unfitness of the offender to undergo the punishment, no part of a sentence of whipping is carried into execution, it may be commuted to imprisonment: but when such a sentence is partially carried into execution, it is not intended that the remainder of the punishment shall, at any future time, be inflicted, or that any other punishment shall be inflicted in lieu thereof. The attendance of a Magistrate at all times, and of a Medical Officer whenever practicable, is provided for.

The Bill does not affect the existing Laws relating to corporal punishment for offences against Jail discipline, or for offences not provided for in the Indian Penal Code.

(Signed) CECIL BEADON.

The 5th February 1862.

M. WYLIE,

Deputy 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 26th February 1862, and was referred to a Select Committee who will make a report thereon after the 1st of June next:—

A Bill to enable the Government to divest itself of the management of Religious Endowments.

WHEREAS it is expedient to relieve the Boards of Revenue and the Local Agents in the Presidency

of Fort William in Bengal and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX. 1810 of the Bengal Code (for the due appropriation of the Rents and produce of Lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes, for the maintenance and repair of Bridges, Serays, Kuttras, and other public buildings; and for the custody and disposal of Nuzzool Property or Escheats), and Regulation VII. 1817 of the Madras Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges, or other public purposes; for the maintenance and repair of Bridges, Choutries, or Chuttrams, and other public buildings; and for the custody and disposal of Escheats), so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples and for other religious uses, the appropriation of endowments made for the maintenance of such religious establishments, the repair and preservation of buildings connected therewith, and the appointment of trustees

or managers thereof, or involve any connexion with the management of such religious establishments; and whereas it is expedient for that purpose to repeal so much of Regulation XIX. 1810 of the Bengal Code and Regulation VII. 1817 of the Madras Code as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes; it is enacted as follows:—

I. So much of Regulation XIX. 1810 of the Bengal Code, and so much of Regulation VII. 1817 of the Madras Code as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes, are repealed.

II. As soon as possible after the passing of this Act the Government shall determine, in respect to each and every such Mosque, Temple, or religious establishment mentioned in the Preamble of this Act and now under the superintendence of the Board of Revenue, whether the said Mosque, Temple, or establishment shall be left to the management of the present Trustees, Managers, or Superintendents, or whether special provision shall be made for the management thereof.

III. Whenever the Government shall determine

that any such religious establishment shall be left to the management of the present Trustees, Managers, or Superintendents, it shall declare the same by Notification in the *Official Gazette*, and thereupon the Board of Revenue or the Local Agents, acting under the authority of the said Board, shall transfer to the said Trustees, Managers, or Superintendents all landed or other property now under the superintendence or in the possession of the said Board or Local Agents, and belonging to such religious establishment, except as provided in Sections XIII. and XV. of this Act; and the powers and responsibilities of the Board and the Local Agents in respect to such religious establishments, and to all lands and other property so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or Agents previous to such transfer, shall cease and determine.

IV. The rights, powers, and responsibilities of

Trustees, Managers, or Superintendents to whom the superintendence of the lands and other property of any such religious establishment is transferred in the manner prescribed in the preceding Section of this Act, as well as the conditions of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under Section X. of this Act, and except in respect of the authority of the said Board and Local Agents given by the said Regulations over such establishment, and over such Trustees, Managers, or Superintendents, which authority is hereby determined and repealed.

V. Whenever the Government shall determine

that special provision shall be made for the superintendence of any such religious establishment, it shall once for all appoint for that purpose a Committee of management consisting of three or more persons who, in respect to such religious establishment and to all the lands and other property belonging thereto and to all persons employed in connexion therewith, shall, except as provided in Sections XIII. and XV. of this Act, exercise all the powers vested by the said Regulations in the Board of Revenue and the Local Agents, and shall perform all the duties now imposed by Law on the said Board and Agents.

VI. The Members of the said Committee shall be

Provision as to the qualifications of Members of such Committee.

appointed from among persons professing the religion for the purposes of which the establishment was founded or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such establishment. The appointment of the Committee shall be notified in the *Official Gazette*.

VII. Every Member of a Committee appointed as above shall hold his office for life unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

VIII. Any vacancy which may occur among the Members of a Committee of management appointed as above shall be filled up by the remaining Members, and if any vacancy shall not be filled up within three months after it has occurred, the Civil Court, on the application of any person whatever, may order that the vacancy be forthwith filled up by the remaining Members, and, if this order be not complied with, may appoint a Member to fill the said vacancy.

IX. Immediately on the appointment of a Committee of Management as above provided, for the superintendence of any such religious establishment and for the management of its affairs, the Board of Revenue or the Local Agents acting under the authority of the said Board shall transfer to the said Committee all landed or other property now under the superintendence or in the possession of the said Board or Local Agents and belonging to the said religious establishment except as provided in Sections XIII. and XV. of this Act, and thereupon the powers and responsibilities of the Board and the Local Agents in respect to such religious establishment, and to all lands and other property so transferred except as above, and except as regards acts done and liabilities incurred by the said Board or Agents previous to such transfer shall cease and determine.

X. Any person or persons interested in any such Mosque, Temple, or religious establishment, or in the performance of the worship or of the services thereof, or of the trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustees, Managers, or Superintendents of such Mosque, Temple, or establishment, or the Members of any Committee appointed under this Act, or any of them, for any breach of trust, neglect of duty, or misfeasance committed by such Trustee, Manager, Superintendent, or by such Member of a Committee, in respect of the trusts vested in or confided to them respectively, and the Civil Court may direct the specific performance of any act by such Trustees, Managers, or Superintendents or by such Member of a Committee, and may decree damages and costs against them, and may also direct the removal of all or any of such Trustees, Managers, or Superintendents or of any such Member of a Committee.

XI. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest or such an interest as would entitle the person suing to take any part in the management or superintendence of the trusts. Any person having a right of attendance, or having been in the habit of attending at the performance of the worship or services of any Mosque, Temple, or religious endowment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

XII. No suit or proceeding before any Civil Court under this Section shall in any way affect or interfere with any proceeding in a Criminal Court for Criminal breach of trust under the Indian Penal Code.

XIII. In any case in which lands have been granted for the support of establishments partly of a religious and partly of a secular character, or in which the endowments made for the support of an establishment are appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustees, Managers, or Superintendents, or to any Committee of Management appointed as aforesaid shall determine what portion, if any, of the said lands or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the said Trustees, Managers, or Superintendents, or of the said Committee, and also what annual amount, if any, shall be charged on the lands or other property which may be so transferred to the superintendence of the said Trustees, Managers, or Superintendents, or of the said Committee, and made payable to the said Board or to the Local Agents for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such lands and other property as may be so transferred.

XIV. After the passing of this Act it shall not be lawful for the Government, or for any Officer of the Government, to undertake or resume the superintendence of any lands or other property granted for the support of or otherwise belonging to any Mosque, Hindoo Temple, or other religious establishment, or to take any part in the management or appropriation of endowments made for the maintenance of any such establishment, or to nominate or appoint any Trustees, Managers, or Superintendents thereof, or to be in any way concerned therewith.

XV. Nothing in this Act shall be held to affect the provisions of the said Regulations except in so far as they relate to Mosques, Hindoo Temples, and other religious establishments, or to prevent the Government from taking such steps as it may deem necessary under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity or for their historical or architectural value or required for the convenience of the public.

STATEMENT OF OBJECTS AND REASONS.

It has long been the avowed policy of the Government of India to divest itself of all direct concern with the management of religious endowments, but the obligations imposed on its Officers by law in the Presidencies of Bengal and Madras present difficulties which have hitherto, as far as regards those Presidencies, prevented the full accomplishment of this purpose.

The subject has given rise to much correspondence to which it is not necessary more particularly to advert. It may suffice to state that the Secretary of State in his Despatch, dated the 16th July 1860, reviewing the more recent proceedings of the Government of India relative to "the repeal of those provisions of the Bengal and Madras Codes by which the general superintendence of the endowments for the support of Mosques and Temples is vested in the Revenue Officers of Government," expressed an opinion "that all that is requisite is an Act on the principle of Act No. X. of 1840 in regard to the Temple of Juggernath, repealing the existing enactments on the subject, and transferring the entire superintendence of the institutions to their re-

spective Trustees, provision being made for an appeal by suit in the ordinary way to the established Courts of Justice in all disputes relating to the appointment and succession to the management of Hindoo and Mahomedan religious institutions, and to the control and application of their funds."

Previous to this expression of opinion by the Secretary of State, a Bill had been brought into the Legislative Council early in 1860 simply repealing Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code, and reserving the jurisdiction now exercised, or which but for those Regulations might have been exercised, by Courts of Justice, in enforcing the due execution or administration of any trust or endowment, and in securing the due appointment or succession to the management thereof.

To this proposed measure two objections have been made. *First*, that by the repeal of the Regulations above cited, the Government is relieved of all concern in the management, not only of all religious endowments, but also of other trusts not of a religious character, which those Regulations impose on it, and which it is not desirable that it should be relieved of. *Second*, that a sudden and abrupt relinquishment by Government of the guardianship of the property of religious and charitable endowments which it has so long managed on behalf of the public, without making due provision for their future management, would be unjust.

Concurring in these objections, I have endeavoured to frame this Bill so as to carry out the object proposed by the Secretary of State, without interfering with the provisions of the existing law so far as they define the duty of Government and its Officers in respect to public property not connected with religious endowments, and at the same time to provide for the due supervision of religious endowments which are now managed by the Government and its Officers, but from which they will henceforth be disconnected.

(Signed) CECIL BEADON.

The 15th February 1862.

M. WYLIE,

Deputy 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 26th February 1860, and was referred to a Select Committee, with instructions to make their report thereon within two months:—

A Bill to amend the Law relating to Affidavits, Affirmations, and solemn Declarations.

WHEREAS it is expedient to enable persons making affidavit or solemn affirmation intended to be used in the Courts of Judicature constituted by Royal Charter, and in other Courts in British India, to swear or solemnly affirm to the truth of the same before any Judge, Magistrate, or Covenanted Officer in Civil employ or before any of the Officers hereinafter enumerated; and to give greater facilities for the taking and receiving of affidavits and affirmations within the said territories, and to authorise the taking of solemn declarations in certain cases; It is enacted as follows:—

I. From and after the passing of this Act, it shall be lawful for any Judge, Magistrate, or Covenanted Officer in Civil employ in British India, whether within the local limits of his jurisdiction or not, whenever he shall be thereto required, or whenever he shall think it necessary, to administer any oath, or to take any affidavit or affirmation from any person whomsoever, for the purpose of or in relation

to any action, cause, matter, or proceeding, civil or criminal, pending or about to be brought in or before any Court of Judicature in British India, whether established by Royal Charter or not; provided that in every such affidavit or affirmation there shall be expressed the name of the party making the same and the place of his abode.

II. The affidavit, when the party making the same shall swear to the truth thereof, of upon oath, and the jurat thereof, may be in the form first set forth in the Schedule hereto annexed; and the affirmation, when the party making the same shall not swear but shall affirm to the truth thereof, may be in the form secondly set forth in the said Schedule; and such forms, when used, shall, in all cases and in all Courts in British India, be deemed sufficient. Provided that it shall not be deemed necessary to make use of either of the said form and that no affidavit or affirmation which would be otherwise sufficient shall be deemed insufficient by reason only of the same not having been made in either of the said forms.

III. Every affidavit and affirmation taken under this Act shall and may be received, read, and made use of in and before any Court in British India and before any of the Judges and Officers thereof, in or in relation to any action, suit, cause, matter, or proceeding, civil or criminal, in like manner, and shall be of the same force and effect as an affidavit or affirmation taken in or before such Court or by any person duly commissioned or authorised by such Court to take such affidavit or affirmation, and shall be filed and dealt with accordingly.

IV. In all suits or matters now pending or hereafter to be brought in any Court of Justice in British India (whether established by Royal Charter or not), it shall be lawful for the Court to receive, in the manner and for the purpose hereinafter mentioned, any affidavit or affirmation or answer or allegation or pleading required to be made on oath or affirmation, purporting to have been sworn or made before any Court, Magistrate, Justice of the Peace, or Notary Public, or before any Ambassador, Consul, or Resident, or before any Officer who now is, or hereafter may be, by law authorised to administer an oath or take an affirmation at any place in Great Britain or Ireland, or in any part of Her Majesty's Dominions, or in any Foreign Kingdom, State, or Country; and such affidavit or affirmation, answer, allegation, or pleading shall and may be received, read, and made use of in and before any of the said Courts, or before any Judge or Officer thereof, in like manner, and shall be of the same force and effect as an affidavit or affirmation taken in or before such Court.

V. And whereas it may be necessary and proper, in many cases not herein specified, to require confirmation of statements or allegations or of written instruments, proof of debts, or of the execution of wills, deeds, or other matters, it is therefore enacted that it shall be lawful for any Court, Judge, Magistrate, or Covenanted Officer in Civil employ, or Officer who now is, or who hereafter may be, by law authorised to administer an oath, or to receive a solemn affirmation in British India, to take and receive the solemn declaration, affidavit, or affirmation, of any person voluntarily making the same before him, in the first, second, or third form in the Schedule hereto annexed; or in some other form expressing that the said solemn declaration, affidavit, or affirmation is made in pursuance of or by virtue of this Act.

VI. Any document purporting to be an affidavit,

A document purporting to be an affidavit, &c. duly sworn, admissible without further proof.

person hereby authorised to take or receive the same, may be admitted and used without proof of any seal or signature thereto, or of the official character of any person.

VII. Any such document shall be deemed to be a

Forged Documents. document purporting to be made by a public servant in his official capacity within the meaning and for the purposes of the 466th Section of the Indian Penal Code.

VIII. Any affidavit or affirmation made or taken

False Affidavits, &c. under the 1st or 4th Section of this Act shall be deemed to be evidence within the meaning and for the purposes of the 193rd, 194th, 195th, and 196th Sections of the Indian Penal Code.

IX. Any voluntary declaration, affidavit, or affirmation made under the 5th

False Declarations, &c. Section of this Act shall be deemed to be evidence within the meaning and for the purposes of the 199th and 200th Sections of the Indian Penal Code.

X. And whereas it is necessary to make separate

Special provision regarding the Straits Settlement. provision for the trial of offences committed in regard to affidavits, affirmations, or declarations made under this Act, in the Settlement of Prince of Wales' Island, Singapore, and Malacca, to which the provisions of the Penal Code do not extend; it is enacted as follows:—Whoever shall within the Settlement of Prince of Wales' Island, Singapore, and Malacca forge any document purporting to be an affidavit, affirmation, or declaration, and to have been sworn, affirmed, or made before any Court, Judge, Magistrate, Officer, or other person authorised to take or receive the same, or a seal or signature to any such document, or shall tender in evidence or fraudulently or dishonestly use as genuine any such forged document or any such document with a false or counterfeit seal or signature thereto, or to the jurat thereof, or to any statement made therein or thereon for the purpose of authenticating such document, knowing such document to be forged, or such seal or signature to be false or counterfeit, shall, on conviction, be liable to transportation for a term of seven years, or to penal servitude for a term of four years, or to imprisonment with or without hard labour for any term not exceeding three years.

XI. Whoever shall, within the Settlement of Prince

Willful false statement in affidavit in any material particular, to be deemed perjury. of Wales' Island, Singapore, and Malacca willfully make before any Judge or other Officer or person hereby

authorised to take the same, any oath, affidavit, affirmation, or solemn declaration, knowing such oath, affidavit, affirmation, or solemn declaration to be false in any material particular, shall be deemed guilty of perjury, and any person, who, within the said Settlement shall willfully use, or tender in evidence, or in confirmation of any allegation or statement, any such affidavit, affirmation, or solemn declaration, whether sworn or made within the territories aforesaid, or without the said territories, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor, and shall be liable to the same punishment as if he had committed perjury.

XII. Every accessory before the fact to any offence

Trial of accessories. under the 10th or 11th Section of this Act, may be indicted, tried, and dealt with by any Court having jurisdiction over him for the commission of his offence in the place in which it was committed, or may be indicted, tried, and dealt with in the same manner as if his offence had been committed in the place in which he

may be apprehended and be in custody, or in the place in which the principal offender may be tried, and shall, if convicted, be liable to the same punishment as the principal offender.

XIII. The following words in this Act shall have

Interpretation. the meanings hereby assigned to them, unless there be

something in the subject or context repugnant to such construction (that is to say):—

I. The words "British India" denote the territories which are or may become vested in Her Majesty by the

"British India." Statute 21 and 22 Vic. c. 106, entitled An Act for the better Government of India.

2. The word "Judge" shall include all Officers exercising judicial functions, authorised to administer an

oath or affirmation, whether Covenanted or Un-Covenanted.

3. The word "Magistrate" shall include Joint Magistrates, Deputy Magistrates, and persons lawfully

exercising the powers of a Magistrate, and Justices of the Peace.

4. The words "Covenanted servant in Civil employ" shall include all Covenanted

"Covenanted Servant in Civil employ." public servants of Her Majesty, whether Civil or Military, who shall at the time hold or exercise any Civil employ whatsoever in the service of Government.

5. The word "Ambassador" shall include Envoys, Ministers, Chargés d'Affaires, Secretaries of Embassy or Legation, and Diplomatic Agents at Foreign Courts.

6. The word "Consul" shall include Vice-Consuls, Acting Consuls, and Consular Agents.

7. The word "Resident" shall include all Officers acting as Resident or as representing the Governor General, or the Governor General in Council, at the Court of any Native Prince and State, and the Secretaries and Under-Secretaries employed at such Residency.

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

9. Words importing the masculine gender shall include females.

10. Words importing the plural number shall include the singular number.

11. Words importing the masculine gender shall include females.

SCHEDULE TO THE FOREGOING ACT.

1.

Form of Affidavit and of Jurat.

I, A. B., of make oath and say that

And I make this affidavit, believing the same to be true, and by virtue of the provisions of the Act No. of 186 , of the Governor General of India in Council.

(Signed) A. B.

Sworn before me at this day of 186 .

(Signed) C. D.

(Description of the Judge, Magistrate, or other Officer administering the oath.)

2.

Form of Affirmation.

I, A. B., of do solemnly and sincerely affirm that, &c.

And I make this solemn affirmation, believing the same to be true, and by virtue of the provisions of the Act No. &c.

Solemnly affirmed before me at this day of 186 .

(Signed) C. D.,
(Description of Officer.)

I, A. B., of _____ solemnly
and sincerely declare that

And I make this declaration conscientiously believing
the same to be true, and by virtue of the provisions of
Act No. _____ of 1856.

Solemnly declared before me this
day of _____ 186 .

(Signed) C. D.,
(Description of Officer.)

STATEMENT OF OBJECTS AND REASONS.

THE main Objects and Reasons of this Bill sufficiently appear from the statement of Objects and Reasons made by the Honorable Mr. Peacock (the present Chief Justice), on first bringing in the Bill, and in the letter from the Advocate-General annexed thereto.

The reasons for the Bill are at least as strong now as they were when it was first proposed. Much inconvenience and loss of time are sometimes caused by reason of the necessity that at present exists, when a person is desirous of deposing by affidavit to material points which require to be verified in proceedings in the Presidency Towns, of obtaining a Commission from the Court in which the affidavit is to be used, to swear such person to the affidavit. In such case an affidavit sworn before a Magistrate or other Officer at the place at which the deponent resides would be quite as effectual for the purposes of Justice, and would save all the expense and delay which a resort to the present cumbrous system, existing at the Presidency Towns, of obtaining a Commission under the seal of the Court directed to a Commissioner at the place of the deponent's residence (very often being the local Magistrate or Officer to whom the deponent would have resorted in the first instance, if the law admitted of his doing so), and sending such Commission back to the Presidency executed with the affidavit.

The provisions of the Penal Code relating to false evidence and the fabrication of documents render the penal Sections of the Bill (Sections 7 and 8), as originally drawn, so far as they apply to British India generally, unnecessary. For the sake of greater caution however I propose, in substitution for those Sections, to declare that affidavits and affirmations taken under the 1st and 4th Sections of this Act, in the course of or with a view to proceedings in any Court, shall be deemed evidence within the meaning of Sections 193 and 194 of the Penal Code, that any voluntary declaration made under the 5th Section (not being in the course of or with a view to judicial proceedings) shall be deemed a declaration within the meaning of Sections 199 and 200, and that every affidavit, affirmation, or declaration, professing to have been made before, or to have been authenticated by any Judge or Officer under this Bill, shall be deemed a document purporting to be made by a public servant within the meaning of Section 466.

As however the provisions of the Penal Code do not extend to the Straits Settlement, while the provisions of this Act as to affidavits and declarations do extend to that Settlement, it is necessary to provide for the punishment of such offences when committed within that Settlement. The 10th, 11th, 12th, and 13th Sections of the Act as now framed make such provision.

(Signed) W. RITCHIE.

The 22nd January 1862.

STATEMENT OF OBJECTS AND REASONS.

THE Government of India lately applied to the Supreme Court in Calcutta to know whether the costs of taking out probate to estates of small value might not be diminished. The Judges of the Supreme Court in answering the question remarked that, in the particular case adverted to, the expenses were materially increased by the costs of a Commission which it was necessary to take out in order to swear the Executive, who was resident in the Mofussil, to her affidavit; and that any general measure, which would enable Judges and other

Officers of Government to swear parties in the Mofussil to affidavits to be used in the Supreme Court, would much diminish such costs.

The Advocate-General was accordingly requested to prepare a Bill for that purpose, which, subject to some alterations, is the Bill now proposed. It should be remarked that, in addition to taking affidavits and affirmations to be used in the Supreme Courts, the Bill authorises certain Officers to take voluntary affidavits and declarations for the purpose of confirming statements, of authenticating documents, and of proving debts and other matters.

A copy of the letter from the Advocate-General to the Secretary to the Government of India in the Home Department is annexed.

B. PEACOCK.

The 7th June 1856.

From the Officiating Advocate-General, to the Secretary to the Government of India, Home Department, (date the 15th May 1856).

SIR,—I have now the honour to submit the draft of a Bill which I have prepared in compliance with the instructions of the Right Honorable the Governor-General in Council, conveyed in your letter, dated the 25th ultimo, for the purpose of enabling Judges and Magistrates to swear parties in the Mofussil to affidavits to be used in the Supreme Court, with a view to obviate the costs now incurred in taking out a Commission.

2. I have thought it advisable to extend the Bill beyond the immediate purpose above specified, which is alone referred to in the correspondence with the Honorable the Judges of the Supreme Court accompanying your instructions, and to make the proposed measure applicable to all cases of affidavits taken within the British Territories in India and to all Courts of the Company as well as of the Crown within those Territories; and also to provide for the reception in all such Courts of affidavits taken in Great Britain, the Colonies, or in foreign parts.

3. My object has been to assimilate the law relating to affidavits in this country substantially to that in force in Great Britain, in which the law now stands on a much more liberal and satisfactory footing under the provisions of 5 and 6 Wm. 4, c. 62, and 18 and 19 Vic. c. 42 than it does in India—and there seems no reason why any distinction should exist between the Courts of Her Majesty and those of the East India Company in respect to the law and practice relating to affidavits.

4. The following analysis of the several Sections of the draft Act may perhaps be found useful:—

Section I. empowers any Judge, Magistrate, or Covenanted Officer in civil employ in the Company's service to take affidavits on oath or affirmation for the purpose of or in relation to any suit or proceeding in any Court whatever in British India.

The only restriction on this power is that the name and place of abode of the deponent shall appear in the affidavit or affirmation.

Section II. gives a form of affidavit, jurat, and affirmation; but provides that such form shall not be imperative, and that no affidavit, &c. otherwise good, shall be vitiated only for not following the form.

Section III. provides for the reception in evidence in all Courts of British India of affidavits and affirmations taken under the Act.

Taken partly from 5 and 6 Wm. 4, c. 62, s. 15, and partly from 18 and Vic. c. 42, s. 1.

Section IV. provides for the reception in evidence in any Court of British India of affidavits, &c., taken before any Court, Magistrate, Notary, Diplomatic or Consular functionaries or other specified Officers in Great Britain or of the Colonies or in any Foreign State.

Taken from 18 and 19 Vic. c. 42, s. 1.

Of course the Legislative Council has no power to regulate the mode in which the Judges or other Officers out of the limits of British India shall administer oaths

or affirmations or take affidavits; but it has full power to authorise the reception in evidence of such affidavits in any Courts in British India, and the provision will supply a want often felt where the deponents are beyond the limits of such Courts.

Section V. provides for what are usually called voluntary affidavits, that is, affidavits not made in any particular suit or legal proceeding then pending, but required for the purpose of verifying facts or documents which may afterwards come into dispute.

Such affidavits are constantly sworn and received in different parts of India, especially in Calcutta, and they are often taken for legitimate purposes and are of considerable utility; though sometimes, I believe, taken for more questionable purposes. Great doubts exist as to whether the practice, though so common, is not altogether illegal in this country; and no punishment at present exists for barely making a false oath or affirmation upon such an affidavit. It seems very desirable to legalise the practice with certain restrictions, the most important of which is that of rendering a false oath or affirmation punishable as perjury. The English Act abolishes all oaths on such occasions, and substitutes solemn declarations. I scarcely see the necessity of this, if oaths are retained in ordinary affidavits; and I think it of importance to place voluntary and judicial affidavits as much as possible on the same footing, and to afford facilities for the former when required in judicial proceedings that may subsequently arise. I have not therefore in that respect followed the English precedent; though, if thought desirable, that may easily be adapted to the present Section.

In others respect the Section in substance resembles Section 18 of 5 and 6 Wm. 4, c. 62.

Section VI. provides for the reception in evidence of affidavits and affirmations purporting to be authenticated by the proper Officer without proof of his seal or signature.

This is taken from Section 3 of 18 and 19 Vic. c. 42, and is in conformity with the spirit of the Acts of 1852 and 1855 for the improvement of the law of evidence.

Section VII. provides for the punishment of the forgery of such seal or signature which is made a felony.

Taken from Section 5 of 17 and 18 Vic. c. 42.

Section VIII. provides for the punishment of a false oath or affirmation which is treated as perjury, and for the punishment of the person using or tendering in evidence as true any affidavit or affirmation, knowing it to be false.

The former punishment is provided for by the 5 and 6 Wm. 4, c. 62, s. 22, and 17 and 18 Vic. c. 42, s. 5. The latter I do not find specially provided for in any of the English Acts, but I think of very great importance, especially with reference to affidavits taken out of British India, the actual maker of which cannot be punished under this or any Indian Act.

Section IX. provides for the place of trial of offences under this Act in conformity with the 5th Section of 18 and 19 Vic.

I think the option of the place of trial should be given in the first instance to the Government; as if left to the prosecutor, it might often be exercised with hardship towards the accused; but when Government does not see fit to interfere, the option may be safely given under this Section to the prosecutor.

Section X. provides for the trial and punishment of accessories before the fact in the same manner as the principals.

See 5th Section of 18 and 19 Vic., c. 42.

Section XI. Interpretation of terms.

I have, &c.

(Signed) W. RITCHIE,
Acting Advocate-General.

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 26th February 1862, and was referred to a Select Committee with instructions to make their report thereon within two months:—

A Bill to remove the District of Humeerpore, in the North-Western Provinces, from the operation of the general Regulations.

WHEREAS the District of Humeerpore forms part of the Division of Jhansi in the North-Western Provinces; and whereas none of the other Districts or parts of the said Division has ever been brought under the operation of the general Regulations; and whereas it is expedient that the said District of Humeerpore should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the Division; it is enacted as follows:—

I. Regulation VIII. 1805 of the Bengal Code (for Humeerpore removed from the operation of the general Regulations. *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 Bundelkud by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations*), in so far as it relates to the District of Humeerpore in the Division of Jhansi, is hereby repealed, and the said District shall be subject to the same Laws as are now or may hereafter be in force in the other Districts of the said Division.

II. Any suit or proceeding which, at the time of the passing of this Act, shall be pending in any Court or before any Officer in the said District of Humeerpore, and any suit which, before the passing of this Act, had been determined, and which has been or shall be remanded by any Appellate Court, shall be tried before the Court which for the time being would be competent to try such a suit if instituted after the passing of this Act.

III. But such suit or proceeding shall be tried in the same manner, and shall be subject to the same right of appeal or revision, as if the same were tried by the Court or Officer before whom (in the former case) the suit or proceeding was pending at the time of the passing of this Act, or to whom (in the latter case) the said suit or proceeding would have been remanded but for the passing of this Act.

IV. Any appeal or proceeding now pending in the Court of Sudder Dewanny Adawlut or in the Court of Nizamut Adawlut or before the Sudder Board of Revenue for the North-Western Provinces, shall be determined by such Court or Board in the same manner as if this Act had not been passed; and any application for the execution of a decree or order which, but for the passing of this Act, would have been made to any Court or Officer existing at the time of the passing of this Act, shall be made to the Court or Officer that would have jurisdiction under this Act in respect of the matter in dispute, if the suit or proceeding had been instituted after the passing of this Act.

V. Any appeal from a decree or order passed before the passing of this Act shall be received, heard, and determined by the Court or Officer who would have jurisdiction under this Act over such appeal, if the decree or order to which it relates had been passed after the passing of this Act; but shall be heard and determined in the same manner as if the same had been heard by the Court or Officer to whom the appeal would have lain but for the passing of this Act.

STATEMENT OF OBJECTS AND REASONS.

The District of Humeerpore in the North-Western Provinces, to which this Bill relates, forms part of the Division of Jhansi, and is at present subject to the Regulations of the Bengal Code. None of the other Districts of the Division (three in number) are subject to the Regulations, and inconvenience has been felt in the administration of Civil and Criminal justice from the circumstance that in one Division three Districts are subject to one system of Law, and a fourth to a different system. In order that the entire Division may be placed on the same footing in this respect, it is proposed to remove the District of Humeerpore from the operation of the Regulations so as to make the whole Division a Non-Regulation Division. This is what was done when the Delhi Territory was taken away from the Government of the North-Western Provinces in 1858, and placed under the Government of the Punjab, and when in 1860 the Pergunnahs of Koonch and Calpee which previously were included within the limits of the District of Humeerpore, and had subsequently been transferred to the District of Jaloun, were removed from the operation of the general Regulations, so as to make the whole of Jaloun a Non-Regulation District. On these occasions Act XXXVIII. of 1858 and Act XXX. of 1860, were passed, and the present Bill is framed on the same principles as those Acts.

Below is an Extract from the letter of the Secretary to the Government of the North-Western Provinces, in which are stated the reasons of His Honor the Lieutenant-Governor for desiring that the change should be made.

(Signed.) W. RITCHIE.

The 29th January 1862.

Extract from a letter from the Secretary to the Government of the North-Western Provinces,—(No. 781A, dated the 11th July 1860.)

PARA. 13.—* * * The Commissioner of Jhansi is Civil and Sessions Judge in three of the Districts under him, namely, Jhansi, Jaloun and Chunderee. In Humeerpore he is Sessions Judge only, the Civil business being taken by the Judge of Banda. In the town of Jhansi there is a Principal Sudder Ameen, and in Humeerpore a Moonsiff.

14. The very bias of His Honor's proposals is the abolition of this anomalous state of things. For the reasons which have led the Legislature to de-regulate the Pergunnahs of Koonch and Calpee in the Jaloun District, Humeerpore should be de-regulated and placed under the jurisdiction of the Jhansi Commissioner in all Departments of Administration.

15. The whole of the separate Judicial Agency should then be abolished in both the Divisions, the Commissioners put in all respects on the same footing as those in the Punjab, and the Punjab system introduced, as proposed by Mr. Ricketts, whereby the Civil administration in all Departments will devolve upon the Commissioners, the Deputy Commissioners, and their Subordinates; the Sudder Court and the Sudder Board taking the place respectively of the Judicial Commissioner and Financial Commissioner in the Punjab and Oudh.

M. WYLLIE,

Deputy 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 26th February 1862, and was referred to a Select Committee who will make a report thereon after the 1st of June next:—

A Bill to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHEREAS by the Letters Patent re-constituting the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, Her Majesty, among other things, authorised and empowered the Governor or President and Council of the said Settlement for the time being to erect and establish such Court or Courts of Judicature as they should see fit for the recovery of small debts, and for the trial and determination of all suits and causes whatsoever against any of the inhabitants of the said Settlement, wherein the debt, duty, or matter in dispute should not exceed the value of thirty-two dollars; and whereas under the said authority Courts of Requests have been established at Penang, Province Wellesley, Singapore, and Malacca; and whereas it is expedient that the said Courts and also any other Courts which may hereafter be established under the said authority, should have jurisdiction in all suits wherein the matter in dispute shall not exceed the value of one hundred dollars; it is enacted as follows:—

I. From and after the passing of this Act, any Court or Courts established or which may be established in the Settlement of Prince of Wales' Island, Singapore, and Malacca, under the said authority, shall have jurisdiction to try and determine all suits brought for the recovery of debts, and all suits and causes whatever against any of the inhabitants of the said Settlement or the places now, or at any time hereafter to be, subordinate or annexed thereto, wherein the debt, duty, or matter in dispute shall not exceed the value of one hundred dollars.

II. It shall be lawful for the Commissioners of the Courts of Requests respectively in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, to appoint four or more persons to be Bailiffs and Appraisers for the purposes of this Act, and with the sanction of the Governor of the said Settlement to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient, and such persons shall be duly sworn before the said Commissioners, and shall also give security, to be approved by the said Commissioners faithfully to discharge the duties of their office, and the said Commissioners shall have power to suspend or remove such persons so appointed; provided that it shall be lawful for the said Commissioners respectively to appoint the Bailiffs who may be attached from time to time to the said Courts respectively to the office of Distraining Bailiffs and Appraisers for the purposes of this Act, and to award to the said Officers such remuneration, in addition to their respective salaries drawn from the said Court, as to the said Commissioners with the sanction of the Governor of the said Settlement shall appear expedient.

III. It shall be lawful for any Commissioner of a Court of Requests in any such Station, upon the affidavit in the form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears, of rent of any house or premises situate in such Station, not exceeding the amount of one hundred dollars, or in case of absence of such party from such Station, or in case of respectable females who do not appear in public, upon the affidavit of the

constituted Attorney of such party, stating the amount of such arrears, and for what time and at what rate the same became due, to issue a Warrant under his hand and seal, in the form contained in the Schedule to this Act annexed (marked A), addressed to any one of such Officers of such Court, directing him to levy the amount of such rent, together with the costs of the said distress, in the manner therein mentioned; provided that it shall be lawful for any of the said Commissioners upon personal examination of the party applying for such Warrant, to grant or withhold the same, at the discretion of the said Commissioner.

IV. By virtue of such Warrant it shall be lawful for such Officer to seize the whole or such part of the Goods and Chattels upon the said premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and he shall thereupon make an Inventory of the Goods and Chattels so seized, and shall give a notice in writing in the form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said Premises, that the said Goods and Chattels will be appraised and sold in manner therein mentioned. And the said Officer shall file in the Court of Requests, from which the Warrant issued, true copies of the said Inventory and Notice; provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure to apply to any Commissioner of such Court to discharge or suspend such Warrant, and it shall be lawful for such Commissioner to discharge or suspend such Warrant accordingly, with or without costs; provided that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

V. In default of such application, it shall be lawful for any two such Officers of such Court, at the expiration of five days from such seizure, to appraise the Goods and Chattels so seized, and to give notice in writing in the form in the Schedule to this Act annexed (marked E) of the sale thereof, at such time and place as they shall direct, after an interval of not less than two days; and they shall file in such Court a true copy of the said notice, and that the same shall be sold accordingly, and the said Officers shall forthwith, after realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the said Court, or other Head Officer of such Court and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due; provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

VI. No costs shall be taken or demanded for such distress, except those contained in the Schedule to this Act annexed (marked C), and it shall be lawful for the said Commissioners of the Court out of which such distress is issued, with the sanction of the Governor of the said Settlement to apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers, as shall appear to the said Commissioners expedient, and the Chief Clerk or other Head Officer of the said Court shall keep a book, in which all sums received at costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers and all contingent charges incurred in respect of such distresses shall be duly entered, and the Chief Clerk or other Officer as aforesaid, of the said Court, shall also enter in the said book all sums realized by sale of the goods and chattels

distrainted and paid over to the landlords, under the provisions of this Act.

VII. After the passing of the Act, no distress shall be levied for arrears of rent amounting to one hundred Dollars or less, except under the provisions of this Act; and any person, except such Officer as shall be appointed under this Act, levying or attempting to levy any such distress, shall be guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment for the same, in addition to any other liability he may have incurred by such trespass.

VIII. This Act shall not extend to any arrears of rent exceeding one hundred Dollars, nor in respect of any House or Premises situate due to the local jurisdiction of any such Court, nor to any rent due to Government, nor to any seizure, except on the Premises in respect of which such rent is claimed.

IX. A seal shall be made for every Court of Requests in the said Settlement under the direction of the Governor of the said Settlement, and all Summonses and other process issuing out of any such Court shall be sealed or stamped with the Seal of the Court; and every person who shall forge the Seal or any process of any such Court, or who shall serve or enforce any such forged process knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of such Court, knowing the same to be false, or who shall act, or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

X. Every person who shall give evidence in any Court of Requests in the said Settlement shall be examined on oath, or when exempt by law from taking an oath on solemn affirmation; and every person who, in any examination upon oath or solemn affirmation under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

XI. Either of the parties to a suit or any other proceeding in any Court of Requests in the said Settlement may obtain, at the Office of the Clerk of such Court or other Officer as aforesaid, Summonses to witnesses, with or without a clause, requiring the production of books, deeds, papers, and writings in their possession or control, and in any such Summons any number of names may be inserted.

XII. Every person, on whom any such Summons shall have been served, either personally or in such manner as shall be directed by the general rules or practice of the Court of Requests out of which such Summons shall issue, and who shall refuse or neglect, without sufficient cause, to appear or to produce any books, papers, or writings required by such Summons to be produced, and also every person present in any such Court, who shall be required to give evidence and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding fifty Dollars, as the Commissioners of such Court shall set on him, and the whole or any part of such fine, in the discretion of the Commissioners after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

XIII. The Commissioners of any Court of Requests in the said Settlement, in all suits where the debt or demand exceeds the sum of fifteen Dollars, upon proof before them that any defendant, against whom a summons has been taken out, conceals himself from, or otherwise evades process of, such Court, or is disposing

of his property and effects, with intent to defraud the plaintiff or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of such Court, may issue a Warrant for the apprehension of such person, and may commit him to gaol, until he shall find security for his appearance in such Court, from time to time, until judgment shall be pronounced in the suit commenced by such Summons, and for payment of the amount and the costs which may be decreed against him therein.

XIV. Payment of any fine imposed by any Court of Requests under the authority of this Act may be enforced upon the order of the Commissioners of such Court in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

XV. Whenever any Court of Requests in the said Settlement shall have made an order for the payment of money, the amount shall be recoverable in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed, by execution against the body or the Goods and Chattels of the person against whom such order is made, without further notice or order, and the Clerk of the said Court or other Officer as aforesaid, at the request of the person prosecuting such order, shall issue under the Seal of the Court a Writ of Execution to one of the Bailiffs of such Court, which shall be his Warrant to take the body of such person in execution, or to levy, or cause to be levied by distress and sale of the Goods and Chattels of such person, such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all Constables and other Peace Officers within their several jurisdictions shall aid in the execution of every such Writ.

XVI. If any such Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of such instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as such Court shall order, either at the time of making the original order, or at any subsequent time, under the Seal of the Court.

XVII. Whenever any Warrant shall issue for taking in execution the body of any person under this Act the Bailiffs of the Court of Requests out of which such Warrant shall issue, shall be empowered, by virtue thereof, to take and convey him to any prison appointed by the Governor of the Settlement to be the prison of such Court there to remain for such term as shall be directed by the Warrant, not longer than six calendar months, or until he shall sooner perform the order of such Court.

XVIII. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and the goods issue at the same time under the same judgment.

XIX. Every Bailiff executing any process of execution issuing out of any such Court against the Goods of any person, may, by virtue thereof, seize and take any of the Goods of such person (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade), and may also seize,

and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

XX. If any person shall wilfully insult any Commissioner, Clerk, or Officer of any such Court, or the time being, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of any such Court, or otherwise misbehave in any such Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by the order of a Commissioner of such Court, to take such offender into custody, and detain him until the rising of such Court; and the Commissioners shall be empowered, if they shall think fit, by a Warrant under their hands, and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding twenty-five Dollars, for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid, for any time not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act, may cause the offender to be indicted in the Court of Judicature if the offence be an indictable misdemeanor.

XXI. If any Officer or Bailiff of any such Court shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested or Goods levied under process of any such Court, the person so offending shall be liable to a fine not exceeding fifty Dollars, to be recovered by order of such Court, or before a Magistrate, and the Bailiff of the Court, or any Peace Officer in any such case, may take the offender into custody (with or without Warrant) and bring him before such Court or Magistrate accordingly.

XXII. If any Bailiff of any such Court, who shall be employed to execute any Warrant of any such Court, shall, by neglect, or connivance, or omission, lose an opportunity of executing such Warrant, then, upon complaint of the party aggrieved by reason of such neglect, connivance, or omission (and the fact alleged being proved to the satisfaction of the Court), the Commissioners of such Court shall order the Bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution is issued, and the Bailiff shall be liable thereto, and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original Warrant.

XXIII. If any Clerk, Bailiff, or other Officer of any such Court acting under colour or pretence of the process of the said Court shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Commissioners of such Court may inquire into such matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and may make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs, as they shall think just; and also, if they shall think fit,

may impose such fine upon the Clerk, Bailiff, or Officer, not exceeding fifty Dollars for each offence, as they shall deem adequate, and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

XXIV. Every Clerk, Bailiff, or other Officer employed in putting any of the powers of this Act in execution, who shall wilfully and corruptly exact, take, or accept any fee or reward whatsoever, other than his lawful salary, for any thing done or to be done by virtue of this Act, or on any account whatsoever, relative to putting this Act into execution, shall upon proof thereof before the Court in which such Clerk, Bailiff, or Officer is employed, and in the case of a Clerk, on confirmation of the finding of the Court by the Governor of the said Settlement, be for ever incapable of serving or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

XXV. If any claim shall be made to or in respect of any Goods or Chattels taken in execution under the process of any Court of Requests under this Act, or in respect of the proceeds or value thereof, by any person not being the party against whom such process has issued, the Clerk of such Court or other Officer as aforesaid, upon application of the Officer charged with the execution of such process, as well before as after any action brought against such Officer, may issue a Summons, calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in the Court of Judicature in respect of such claim shall be stayed, and the Judge of the Court of Judicature, on proof of the issue of such Summons, and that the Goods and Chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action, after the issue of such Summons out of such Court of Requests; and the Commissioners of such Court of Requests shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

XXVI. If any person shall bring any suit in any Court of Judicature in the said Settlement in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court of Requests within the jurisdiction of such Court of Judicature under colour or pretence of the process of the said Court of Requests, and upon the trial of the action, no greater damages shall be found for the plaintiff than the sum of two hundred and fifty dollars, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the record, that the action was fit to be brought in the Court of Judicature.

XXVII. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following (that is to say), Be it remembered that on this day of _____ in the year _____ A. B. is convicted before _____ a Magistrate acting under Act _____ (or before a Commissioner of 1862) of having (state the offence) and I (or we) the said _____ do adjudge the said _____ to forfeit and pay for the same the sum of _____ for the space of _____ [or to be committed to _____] given under _____ of _____ and seal _____ the day and year aforesaid.

XXVIII. No order, verdict of judgment, or other proceeding made concerning the matters aforesaid shall be quashed or vacated for want of form.

No order, &c. to be quashed for want of form.

XXIX. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant of distress or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning, on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

XXX. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action is brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

A.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF WARRANT.

I hereby direct you to distrain the Goods and Chattels on the Premises of A. B. situate in the _____ for the sum of _____ dollars, being the amount of _____ months' rent due to C. D., for the same, on the _____ day of _____ last, according to the provisions of the Act No. _____ of _____ dated 1st day of May.

(Signed and Sealed)

To

E. F.,

Sworn Bailiff and Appraiser.

B.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF INVENTORY AND NOTICE. (State particulars of Goods seized.)

TAKE Notice that I have this day seized the Goods and Chattels contained in the above Inventory for the sum of _____ dollars being the amount of _____ months' rent due to C. D., at _____ last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold, pursuant to the provisions of the Act No. _____ of _____

(Signed) E. F.,

Sworn Bailiff and Appraiser.

To

A. B.

C

In the Court of Requests in and for the Station of
SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR
HOUSE RENT.

Sums sued for.	Affidavit, &c., Warrant to Distrain.	Order to sell.	Commission.	Total.	REMARKS.
	Dol. ct.	Dol. ct.	Dol. ct.	Dol. ct.	
1 and under 5 Dollars.					
5 " " 10 "					
10 " " 15 "					
15 " " 20 "					
20 " " 25 "					
25 " " 30 "					
30 " " 35 "					
35 " " 40 "					
40 " " 45 "					
45 " " 50 "					
50 " " 60 "					
60 " " 80 "					
80 " to 100 "					

The above scale is intended to include all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpoenaed, in which case each subpoena, for sums under must be paid for at each, and above that amount, and also where peons were kept in charge of property distrained per day must be paid per man.

D.

In the Court of Requests in and for the Station of
 (as the case may be).

A. B. (Plaintiff.)

versus

C. D. (Defendant.)

A. B., Inhabitant of _____ in the Station of _____ maketh oath and saith, that C. D., who is also an Inhabitant of the Town of _____ is justly indebted to _____ in the sum of dollars _____ for arrears of rent of the House and Premises No. _____ situated at _____ in the Station of _____ due for _____ at _____ month, to wit from _____ to _____ at _____ the rate of dollars _____ per mensem. Sworn before me, the _____ day of _____ 18 _____ Commissioner.

E.

In the Court of Requests in and for the Station of
 (as the case may be).

Take Notice that we have appraised the Goods and Chattels seized on the _____ under the provisions of the Act No. _____ of _____ of which a Notice and Inventory had been duly served upon you under date the _____ and that the said Goods and Chattels will be sold on the _____ at _____ pursuant to the provisions of the said Act.

(Signed) E. F.,
 G. H.,

Sworn Bailiffs and Appraisers.

To

A. B.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is simply to enlarge the jurisdiction of the Courts of Requests in the Straits Settlements from thirty-two to one hundred Dollars, or from sixty-four to two hundred Rupees.

GOVT. INDIA BILLS—28

A presentment by the Grand Jury in January 1861 represented the business of the Supreme Court to have increased so much of late as to render it very desirable that an additional Judge should be appointed, and in forwarding the presentment to the Governor, the Honorable the Recorder stated that "the number of petitions in civil causes filed at the Law side involved a quantity of business quite sufficient to occupy the time of any single Judge, independent of the large amount of Equity, Ecclesiastical, Admiralty, Criminal, and miscellaneous matters that necessarily come before the Court, without taking into account the Spring and Autumn Sessions, both Civil and Criminal, at Malacca, which have likewise to be held before the Recorder of Singapore."

In forwarding these remarks of the Honorable the Recorder to the Government of India, the Governor of the Straits Settlement repeated a recommendation he had formerly made for an extension of the jurisdiction of the Courts of Requests as a means of at once materially lightening the labors of the Higher Court, and the Government of India, concurring in the recommendation, requested that a Bill might be brought in to effect the object desired.

The Bill originally introduced into the late Legislative Council provided only for an extension of the jurisdiction of the Courts of requests from thirty-two to one hundred Dollars, but the Select Committee on the Bill recommended that its scope should be enlarged in accordance with suggestions which were made by His Honor the Recorder of Singapore supported by the Governor of the Straits Settlements.

The present Bill includes the amendments recommended by the Select Committee, and in addition to an enlargement of jurisdiction from thirty-two to one hundred Dollars proposes to extend to the Courts of Requests in the Straits Settlements the provisions of Act VII. of 1847 (for regulating distresses for rent) and the following Sections of Act IX. of 1850 (the Small Cause Court Act)—XXIV., XLVII., XLVIII., XLIX., L., LI., LVIII., LIX., LX., LXI., LXIX., LXXXIII., LXXXIV., LXXXVI., LXXXVII., LXXXIII., CII., CVIII., CIX., CX., and CIX.

(Signed) H. FORBES.

The 22nd January 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 26th February, 1862, and was referred to a Select Committee who will make a report thereon after the 1st June next:—

A Bill to extend Act XXIII. of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil.)

WHEREAS it is expedient to extend the provisions of Act XXIII. of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil); it is enacted as follows:—

I. The said Act XXIII. of 1840, shall be read as if the words "any Court of Judicature established by Royal Charter or by Royal Letters Patent" were mentioned therein, instead of the words "Supreme Courts of Calcutta, Madras, and Bombay." Provided that no writ, warrant, or other process shall be endorsed under the said Act by any Court of Judicature of the Settlement

of Prince of Wales' Island, Singapore, and Malacca, so as to compel the attendance beyond the limits of the jurisdiction of such Court of Judicature of any person living within such limits, unless special grounds be proved to the satisfaction of the Judge of such Court to whom such endorsement shall be applied for, in support of the application, which grounds shall be recorded in the endorsement of the writ, warrant, or other process.

II. Any Summons, Bill in Equity, or other process

issued to commence a suit or action at Common Law or in Equity or on the Ecclesiastical side by any Supreme Court established by Royal Letters Patent in any part of the territories that are or shall be vested in Her Majesty by the Statute 21 and 22 Vic. c. 106 entitled "An Act for the better Government of India," may be served within the local jurisdiction of any other such Court if endorsed for service by a Judge of such other Court as hereinafter provided. The Summons, Bill in Equity, or other process intended for service shall be accompanied by a certificate annexed thereto, signed by a Judge of the Court from which the same is issued, stating some special cause why such Summons, Bill in Equity, or other process should be served within the jurisdiction of some other such Court as aforesaid, and application shall be made to a Judge of such other Court, on production of such Summons, Bill in Equity, or other process, and of such certificate, prior to such service thereof. On such application being made, it shall be in the discretion of such Judge to require proof by affidavit or otherwise that it is proper to allow such service, and on hearing such proof such Judge shall either endorse the Summons, Bill in Equity, or other process for service, or shall endorse thereon the reason for not ordering the service thereof. If such Summons, Bill in Equity, or other process be not endorsed for service as aforesaid, it shall not be served under this Act. When endorsed for service it shall be served in the same manner as if it had originally issued out of the Court in which such endorsement is made.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill as originally introduced into the late Legislative Council was to extend the execution of process issued from any of the Civil Courts in British India, to the Straits Settlements.

The law under which Mofussil process is now executed within the jurisdiction of the Supreme Courts at Calcutta, Madras, and Bombay is Act XXIII. of 1840. This Act does not include places within the jurisdiction of the Courts established by Royal Charter in the Straits.

Inconvenience having been experienced from the impossibility of serving process issued by the authorities at Rangoon on parties in the Straits, and it being represented that "important commercial transactions and constant communication take place between Rangoon and the Straits," it was proposed to alter the provisions of Act XXIII. of 1840, so as to include the jurisdiction of the Courts established by Royal Charter in the Straits.

The present Bill includes amendments suggested by the Select Committee appointed to report on the Bill originally introduced and provides *first*, that no process shall be endorsed under Act XXIII. of 1840 so as to compel the attendance beyond the limits of the jurisdiction of any Court established by Royal Charter in the Straits Settlements of any person living within such limits unless it be proved to the satisfaction of the Court that there are grounds for the application for the endorsement; and *second*, that process issued by one Court established by Royal Charter may, at discretion, be served within the local limits of another Court established by Royal Charter, when accom-

panied by a certificate signed by a Judge of the Court from which the process is issued, stating some special cause why the process should be served within the jurisdiction of another Court.

(Signed) H. FORBES.

The 22nd January 1862.

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

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 26th February 1862, and the Bill, as proposed to be amended by the Select Committee, was ordered to be published in the *Official Gazettes* of the several Presidencies, and taken into consideration on the 9th of April next:—

HOME DEPARTMENT.—LEGISLATIVE.

WE, the undersigned, the majority of 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 consolidate and amend the Law relating to Stamp Duties was referred, have the honor to report that we have considered the Bill, and have suggested several amendments in its details, which will appear in italics in the reprinted copies.

A Petition to the Governor General in Council from certain Secretaries and Agents of Marine Insurance Offices in Calcutta, objecting to the Stamp on letters of cover, having been referred to us, we have come to the conclusion that, as the Policy of Insurance, to which the letter of cover is only initiatory, is required to bear the full Stamp, the letter of cover may be properly exempted, subject to a provision by which such letter of cover is prevented from doing the duty of a Policy unless stamped with a full Policy Stamp in cases in which no Policy is issued.

The Sudder Foudzaree Adawlut of Bombay having thrown doubts on the authority of Collectors under Section XXXVII. of Act XXXVI. of 1860 when only acting under general instructions of the superior Revenue Authorities, and having ruled that the words "any Magistrate" in Section XXXVIII. of that Act could not be construed to mean persons having powers less than the full powers of a Magistrate, we have proposed to amend Sections XLVIII. and XLIX. of the Bill so as to meet the difficulty which has thus arisen.

The Honorable Rajah Dinkar Rao Rugonauth Bahadoor does not concur in this Report: a separate paper recorded by him is annexed.

(Signed) H. B. HAMINGTON.
" S. LAING.
" W. RITCHIE.
" H. FORBES.
" C. J. ERSKINE.
" W. S. FITZWILLIAM.
" D. COWIE.

The 26th February 1862.

SEPARATE REPORT OF THE HONORABLE RAJAH DINKAR RAO RUGONAUTH BAHADOOR.

I entirely disagree to the passing of this Bill. It is my opinion that Taxation should be simple; a great variety of kinds of Duties and Taxes should

not be imposed on the people. The detailed objections that occur to me are as follows :—

1. It is said that this Bill is a consolidation and amendment of the former Acts ; but this is not its meaning, for in it, to a greater or less extent, the Stamp Duty is increased. It is plain that this Bill is not for consolidation and amendment only, but for increasing the Stamp Duty.

2. It is only a short time since three Stamp Acts (XXXVI. XL. and LI. of 1860) have come into force. It is proper to alter Laws when essentially required. The object of this Bill is supposed to be to explain the Stamp Laws to the people. But before the people can have made themselves acquainted with the former Acts, they will receive another on the same subject. Some of the people are learned, and some are ignorant. How are they all to get themselves acquainted with all these new Acts, and on what should they place their confidence as a settled Law ? If in this matter they make any mistake in using the Stamps, they will have to pay a fine. In such a state of things they must be bewildered and harassed.

3. The Government, in consideration of the comfort of the people, and that there should not be any obstruction to Commerce, has dispensed with Road Taxes, and Customs Duty on many articles, and levied it only on a few things. This is a sound policy ; but it is clear that such Taxes as these Stamp Duties and other similar Taxes are opposed to this policy, because they lead to constant interference and will not leave the people free to perform their occupations.

4. It is well known how much all classes of people complained against the Income Tax, though they submitted to it from the necessity of the case. The Stamp Duty is a kind of Tax open to the same class of objections, that it constantly interferes which the Tax-payers.

5. The people are required to pay several kinds of Taxes, such as Income Tax, License Tax, Land Tax, Municipal Tax, Customs Duty, Chowkedaree, and many others. The present Bill not only leaves all these, but also taxes many of the transactions connected with them, such as receipts, leases, &c.

6. It will be seen from the above that very few are left free to perform their occupations without perpetual taxation.

7. Though the Income Tax is on a larger scale in comparison to the Stamp Duties, yet the effect of both to obstruct a man's business is the same. It will also be seen that the Income Tax is a temporary impost ; but these Stamp Duties will perhaps be permanent.

8. It is said that people in England pay willingly numerous kinds of Taxes. I should doubt if this be true of direct Taxes. But even if it be so, it is to be observed that there is a difference between their customs in this respect and those of the people in Hindoostan who have a special dislike to direct taxation.

9. It is evident that the Subjects will not be pleased to pay any such Taxes. But the Government has to provide for the extraordinary expenses of the State. It is therefore compelled for a temporary purpose to impose such Taxes. For this reason it has already levied the Income Tax where in all sorts of incomes are included. As all man's profits are embraced in the Income Tax, it is not consistent to impose on him any other Tax. When it is incumbent on the Government, in order to

make up a deficiency, to increase such taxation, the people no doubt must obey. But they will, I think, deem it better and more easy to pay once for all, any Tax which may be right in principle and properly assessed, rather than be harassed with several kinds of Taxes and Duties. They will wish, after having paid one Tax, to be left to follow their several occupations unmolested.

10. Though the Government is compelled to impose Taxes to make up what is deficient, yet it is right and proper that the Government should consider what Taxes may be most easily paid by its Subjects, and what will give them least cause of dissatisfaction. I do not think that the Stamp Duty on the general transactions of life, falling upon learned and ignorant people of every class, is such a Tax.

AMENDED BILL.

A Bill to consolidate and amend the Law relating to Stamp Duties.

WHEREAS it is expedient to consolidate and amend the Law relating to Stamp Duties ; It is enacted as follows :—

Preamble.

1. From the time when this Act shall come into force, Act XXXVI.

Repeal of Acts. of 1860 (to consolidate and amend the Law relating to Stamp Duties), Act XL. of 1860 (to amend Act XXXVI. of 1860), and Act LI. of 1860 (further to amend Act XXXVI. of 1860) are repealed, except in so far as they rescind other Acts or Regulations or parts of other Acts or Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force.

II. For every Deed, Instrument, or Writing which shall be executed Stamp Duty payable from the time when this under Schedule A. Act shall come into force,

and which shall be of any of the kinds specified as requiring Stamps by the Schedule A annexed to this Act, there shall be payable to Government a Stamp Duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

III. If any person shall draw, or, except as provided in Section XXIII. Penalty for drawing, &c. of this Act, shall accept, unstamped or insufficiently of this Act, shall accept, stamped Bill of Exchange, endorse, negotiate, pay, &c. or receive payment of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar Instrument, or if any person shall make, execute, sign, or be a party to any Deed, Instrument, or other Writing, engrossed on unstamped or insufficiently Stamped paper or other material, which should bear a stamp of the value set forth in Schedule A, every such person so offending (unless in any case in which a higher penalty is imposed by this Act), shall forfeit a sum not exceeding one hundred Rupees, or a sum equal to ten times the value of the Stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

IV. The Governor-General of India in Council shall prescribe the form, size, and material of the Governor-General in Council to prescribe the form, &c. of Stamps to be used. Stamps to be used, and the mode and place of used.

impressing, affixing, or denoting thereupon the value of the same under the provisions of this Act, and may from time to time alter and vary the orders which he may so issue. The orders made by the Governor-General of India in Council under this Section shall be published in the *Official Gazettes* of the several Presidencies and places in which such orders are to be in force.

V. The Duty imposed by this Act on Receipts and Drafts or Orders for the payment of money on demand and bearing the date on which the Draft or Order is made, may be denoted by a Stamp impressed upon the paper whereupon any such Instrument is written, or by an adhesive Stamp affixed thereto.

VI. The Duty chargeable on the transfer of a share of any Banking Corporation or Joint Stock Company, which by any Law applicable to such Corporation or Company can be effected by simple endorsement, may be denoted by an adhesive Stamp.

VII. It shall be lawful for the Governor-General of India in Council, by an order to be published in the *Official Gazette*, to authorize the use in the whole or in any part of the British Territories in India to be mentioned in such order of adhesive Stamps for any Deeds, Instruments, or Writings required to bear a Stamp other than the Instruments mentioned in the last two preceding Sections.

VIII. In any case where an adhesive Stamp shall be used as hereinbefore authorized, the person making the Deed, Instrument, or Writing to which such Stamp is affixed, shall, before the Deed, Instrument, or Writing shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name or the initial letters of his name, or in such other manner as to show that such Stamp has been made use of, and so that the same shall not be used again; and if any person who shall write or give any Receipt or Discharge or make or sign any Draft or Order, or any other Deed, Instrument, or Writing with an adhesive Stamp thereon when an adhesive Stamp is allowed to be used, shall not *bonâ fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

IX. The duty imposed by this Act on Foreign Bills of Exchange shall be paid on account of all Bills drawn within, but payable out of, the British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be endorsed, transferred, paid, or otherwise negotiated within those Territories wheresoever the same may be payable; and the Duty so imposed on Bills drawn out of the British Territories in India may be denoted by adhesive Stamps to be affixed to such Bills as hereinafter directed.

X. Every Bill of Exchange which shall purport to be drawn at any place out of the British Territories in India shall, for all the purposes of this

Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same shall have been drawn within those Territories.

XI. The holder of any Bill of Exchange drawn out of the British Territories in India, and not having a proper Stamp affixed thereon as herein directed, whether the same be a single Bill or one of a set of two or more Bills, shall, before he shall present the same for acceptance or for payment or endorse, transfer, or in any manner negotiate such Bill, affix thereto a proper adhesive Stamp for denoting the Duty by this Act charged on the amount of such Bill when drawn singly, and the person who shall present such Bill for acceptance or payment, or who shall endorse, transfer, or in any manner negotiate such Bill, shall, before he shall deliver the same out of his hands, custody, or power, cancel the Stamp so affixed by writing across the Bill as his endorsement, his name or the name of his firm and the date of the day and year on which he shall so write the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such manner as to show that the Stamp has been made use of, and so that the same shall not be used again: and if any person shall present for acceptance or for payment, or shall pay or endorse, transfer, or in any manner negotiate any such Bill as aforesaid, whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person who ought as directed by this Act to cancel such Stamp in manner aforesaid shall refuse or neglect so to do, every such person so offending in any such case shall be liable to the penalty prescribed in Section III. of this Act; and no person who shall take or receive from any other person any such Bill as aforesaid either in payment or as a security, or by purchase or otherwise shall be entitled to recover thereon, or to make the same available for any purpose whatever, unless at the time when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereto and cancelled in the manner thereby directed.

XII. If any person shall, within the British Territories in India, draw any Bill of Exchange, purporting to be drawn in a set of two or three, and shall not draw at the same time on paper duly stamped as required by this Act, the whole number of Bills of which such Bill purports the set to consist, he shall forfeit a sum not exceeding one thousand Rupees.

XIII. Except as otherwise provided by this Act, no Deed, Instrument, or Writing, for which any Duty shall be payable under Section II. of this Act, shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon in any such Court or by any public Officer, or shall be registered in any public Office or authenticated by any public Officer, unless such Deed,

Penalty for negotiating such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

Penalty for drawing Bills purporting to be drawn in a set of three and not drawing the whole number of the set.

Effect of a writing not duly stamped.

Instrument, or Writing be upon a Stamp, or when an adhesive Stamp shall be allowed to be used, shall bear a Stamp of a value not less than that indicated to be proper for it by the said Schedule

Proviso.

A. Provided that every Deed, Instrument, or Writing liable to Stamp Duty shall be admitted as evidence in any Criminal proceeding, although it may not have the Stamp required by this Act impressed thereon or affixed thereto.

XIV. Clause. 1.—If any Deed, Instrument, or Writing requiring to be stamped shall have been executed on paper not bearing the proper Stamp, the Collector of Stamp Revenue of the District if satisfied that the omission

or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp did not arise from any intention to evade payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing, or otherwise to defraud the Government, may, on payment of the proper Stamp Duty, or if the Deed, Instrument, or Writing shall be insufficiently stamped, such sum as with the amount of the Stamp upon such Deed, Instrument, or Writing, shall suffice to complete the prescribed amount and, as a penalty, double the amount required to make up the same, direct that such Deed, Instrument, or Writing be duly stamped; provided that such Deed, Instrument, or Writing be presented to such Collector for the purpose of having the proper Stamp affixed to or impressed upon it within six weeks from the date of its execution. If the Collector be satisfied

that the omission or neglect to execute such Deed, Instrument, or Writing arose solely from urgent necessity or unavoidable accident, he may remit the penalty prescribed by this Section.

Clause. 2.—If any Deed, Instrument, or Writing requiring to be stamped under this Act, which shall have been executed on unstamped or insufficiently stamped paper, shall be brought to such Collector for the purpose

of being properly stamped, after thirty days from the date of its execution, but within four months from that date, such Collector, if satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp, did not arise from any intention to evade the payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing, or otherwise to defraud the Government, may, on payment of a sum sufficient to make up the proper amount of Stamp Duty, and as a penalty treble the amount required to make up the same, direct that the requisite Stamp be impressed on such Deed, Instrument, or Writing; or if such Deed, Instrument, or Writing shall

not be brought to such Collector until after the expiration of four months, from the date of its execution, the requisite Stamp may be ordered to be impressed on payment of the sum required to make up the proper amount of Stamp Duty, and as a penalty twenty times the amount required to make up the same.

Clause. 3.—It shall be the duty of the Collector

to determine whether, on payment of Penalty, a Deed, &c. executed on unstamped or insufficiently stamped paper shall be stamped.

falling under the last two preceding Clauses, which shall have been executed on unstamped or insufficiently stamped paper.

Clause 4.—Whenever a doubt shall arise respecting the proper amount of the Stamp to be impressed under this Section on any Deed, Instrument, or Writing, the Collector of Stamp Revenue of the District shall determine the amount of Stamp to be impressed upon such Deed, Instrument, or Writing.

Clause 5.—In any case falling within this Section in which it shall appear to the Board of Revenue or the Chief Controlling Revenue Authority that a Collector of Stamp Revenue has directed an improper Stamp to be impressed upon any Deed, Instrument, or Writing, such Board or other Authority as aforesaid, if the Stamp ordered by the Collector to be impressed upon such Deed, Instrument, or Writing shall not have already been impressed thereupon, may order the proper Stamp to be impressed upon such Deed, Instrument, or Writing upon payment of the proper amount of Stamp Duty and the penalty to which the holder of such Deed, Instrument, or Writing is liable under Clause 1 or Clause 2 of this Section.

Clause 6.—The Board of Revenue or other chief Controlling Revenue Authority may, upon petition, order any penalty imposed under this Section to be mitigated, and, if paid, may order any part of it to be returned.

XV. The Stamp which shall be impressed under the last preceding Section shall be taken in any Court of Justice to be the proper Stamp required by this Act for the Deed, Instrument, or Writing on which the same is impressed.

Clause 1.—A Civil Court, in any case in which a stamp might be impressed under Section XIV. of this Act, may receive in evidence any Deed, Instrument, or Writing not bearing the Stamp prescribed by this Act on payment into

Court of the proper amount of Stamp Duty to be determined by the Court, whose decision on the point shall be final, together with the penalty required by the said Section.

Clause 2.—An entry of such payment setting forth the amount thereof shall be made in a book to be kept by the Court, and shall also be endorsed on the back of the Deed, Instrument, or Writing, and shall be signed by the Court. The Court shall, at the end of every month, make a return to the Collector of the Stamp Revenue of the District, of the money (if any) which it has so received, distinguishing between the

Procedure on payment under preceding Clause.

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sums received by way of penalty and the sums received by way of Duty, stating the number and title of the suit and the name of the party from whom such money was received, and the date, if any, and description of the document, for the purpose of identifying the same; and the Court shall pay over the money so received to such Collector, or to such person as he may appoint to receive the same. Such Collector or other proper Authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement hereinbefore mentioned, cause it to be stamped thereon with a Stamp of the amount paid into Court on account of such Duty. The provisions contained in Clause 6 Section XIV. of this Act as to the mitigation or payment of penalties paid to the Collector shall be applicable to penalties paid into Court under this Section.

XVII. No Deed, Instrument, or Writing executed on unstamped or insufficiently stamped paper shall be stamped at any time after the execution thereof, except as aforesaid.

herein before provided.

XVIII. When in any case other than the cases provided in Section XIV. of this Act any person shall entertain any doubt respecting the proper amount of Stamp Duty for any Deed, Instrument, or Writing, he may apply to the Board of Revenue or the chief Controlling Revenue Authority through the Collector of Stamp Revenue of the District for an adjudication with a view to remove such doubt, and shall at the same time pay a fee of ten Rupees, and thereupon such Board or other Authority as aforesaid shall determine the amount of Stamp which such Deed, Instrument, or Writing should bear, and on payment thereof shall cause such Deed, Instrument, or Writing to be impressed with such Stamp, and an additional Stamp denoting that such adjudication fee has been paid. A Deed, Instrument, or Writing so stamped, shall be received in evidence as properly stamped in any Court of Justice.

XIX. The cost of transmitting by post any Deed, Instrument, or Writing, required to be stamped under any of the foregoing Sections of this Act, and the cost of registering the same at the Post Office for transmission shall, in all cases, be borne by the party applying to have such Deed, Instrument, or Writing stamped.

XX. The Government shall not be responsible for any loss or damage which shall occur in respect of any Deed, Instrument, or Writing entrusted to the Collector of Stamp Revenue of the District for the purpose of being stamped, and no person employed by the Government in the Stamp Department shall be responsible for any such loss or damage, unless such person shall wilfully, fraudulently, or by gross negligence, cause such loss or damage.

XXI. The provisions of Sections XIV. and XVI. of this Act shall not extend to Bills of Exchange or other forms of orders for money, or to Receipts for money.

XXII. The payment of any penalty under Section XIV. or Section XVI. of this Act shall exempt the person paying the same from any further penalty for any such omission or neglect as in therein described, and if any other such penalty shall already have been imposed, the same shall be taken so far as it goes in reduction of any penalty under the said Sections.

XXIII. When any Draft or Order for the payment of money on demand chargeable with the Stamp Duty of one anna shall come to the hand of any person unstamped, it shall be lawful for such person to affix thereto the necessary adhesive Stamp and to cancel the same in the manner required by this Act, and upon so doing to charge the Duty against the person who ought to have paid the same, or to deduct such duty from the sum so directed to be paid, and such Draft or Order shall, so far as relates to the Stamp Duty chargeable thereon, be good and valid; but this shall not relieve any person from the liability to the penalty which he may have incurred by issuing the said Draft or Order unstamped.

XXIV. If any person shall, within the British Territories in India, execute any Policy of Marine Insurance, purporting to be drawn in a set of two, and shall not at the same time execute on paper duly stamped as required by this Act, the two numbers of which such Policy purports the set to consist, every such person so offending shall forfeit a sum not exceeding one thousand Rupees.

XXV. In modification of so much of Section 98 of the Code of Civil Procedure as declares that on the application of the plaintiff reciting the substance of any agreement, compromise, or satisfaction, in accordance with which a suit is adjusted and disposed of, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff, authorizing him to receive back from the Collector the full amount of Stamp Duty paid on the plaint, if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been examined,—it is enacted that if such application shall have been presented before the suit is called up for the settlement of issues, or in suits in which the summons to the defendant shall be for the final disposal of the suit, as directed in Section 41 of the said Code, and in Section 9 Act XLII. of 1860 for the establishment of Court of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts established by Royal Charter) before the hearing of the suit has commenced, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into, or made, shall grant a certificate to the plaintiff, authorizing him to receive back from the Collector half the amount of Stamp Duty paid on the plaint. Provided that no such certificate shall be granted if the adjustment between the parties be such as to require a

decree to pass, on which process of execution can be taken out, or in any appealed suit.

XXVI. No larger sum shall be recoverable in any Court of Justice by reason of any Deed, Instrument, or Writing, for which an optional Stamp is indicated to be proper by the Schedule A annexed to this Act than the largest sum for which, if specially stated in a Deed, Instrument, or Writing of the same denomination, the Stamp actually used under the option so given would be of sufficient value. And no such Deed, Instrument, or Writing shall be held by any Court of Justice to be valid in respect to any sum of money larger than that for which the Stamp, on the said Deed, Instrument, or Writing would be sufficient.

XXVII. No Justice of the Peace or any Officer before whom an affidavit not made for the immediate purpose of being filed, read, or used in any Court of Justice, may be taken, shall receive or attest such affidavit, unless it be written on a Stamp of not less than the value prescribed by the Schedule A annexed to this Act.

XXVIII. Every person receiving payment of any sum of money, the receipt for which under this Act requires a Stamp shall (if required) give a receipt bearing the proper Stamp indicted by this Act, and shall bear the expense of furnishing the same, and in case of refusal shall be liable to a penalty not exceeding one hundred Rupees. The expense of providing the Stamp of any Bill of Exchange, Letter of Credit, Draft, Cheque on a Banker or other person, Promissory Note, or other Order or Obligation for the payment of money made or drawn in the British Territories in India (not being a Bond, Instrument, or Writing bearing the attestation of one or more witnesses), shall be borne by the person making or drawing the same.

XXIX. Except in any Court of Justice established by Royal Charter, or in any Court of Small Causes established within the local limits of the jurisdiction of any such Court, no Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B annexed to this Act, shall be filed, exhibited, or recorded in any Court of Justice or Government Office, or shall be received or furnished by any public Officer, unless such Instrument or Writing be upon a Stamp prescribed as aforesaid by the Governor-General of India in Council, and of a value not less than that indicated to be proper for it by the said Schedule B.

XXX. Every provision contained in the Schedules annexed to this Act, shall be of the same force as if it were contained in the body of the Act.

XXXI. The Governor-General of India in Council may, from time to time by an order to be published in the Official Gazette, direct that, in the whole or in any part of the British Territories in India to be specified in such order, such lower rates of Stamp Duty as he shall prescribe, shall be taken on all or any of the Deeds, Instruments, or

Writings specified in the Schedules annexed to this Act, or altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Such cancellation or variation shall also be notified in the Official Gazette.

XXXII. The local Government shall appoint Officers for the collection of the Stamp Revenue, and shall assign Districts to such Officers.

XXXIII. All orders passed by the Collectors of Stamp Revenue, shall be open to revision by the Board of Revenue, or other chief Controlling Revenue Authority, except orders passed under Section XIV. of this Act, when the Collector shall allow a Deed, Instrument, or Writing not bearing the proper Stamp to have the proper Stamp impressed upon it, and orders passed under Section XLVII. of this Act, when the Collector shall allow a new Stamp or the value in money to be given in lieu of any Stamp which shall have been damaged, soiled, or rendered unfit for use. All such orders shall be final and shall not be open to revision.

XXXIV. The local Government may license or cause to be licensed Venders of Stamps, and may direct how and under what conditions Stamps may be supplied to such Venders for sale.

XXXV. Every Vender of Stamps shall at all times have his license, together with the Schedules annexed to this Act, in the Vernacular language of the District, stuck up in a conspicuous situation in the place where he sells the Stamps, on pain of a fine not exceeding fifty Rupees.

XXXVI. Every Vender of Stamps shall write on the back of every Stamp which he sells, except adhesive Stamps and Stamps used for Receipts, or for Bills of exchange, Promissory Notes, Drafts, or other Orders for money, Agreements for loans falling under Article 13 of the Schedule A annexed to this Act, or Bills of Lading, the date of issue, the name of the person to whom the Stamp is issued, and his own ordinary signature on pain of a fine not exceeding one hundred Rupees.

XXXVII. Any Vender who shall knowingly write a false name or date on the back of any Stamp which he is required to endorse under the last preceding Section shall be punished by a fine not exceeding five hundred Rupees, or imprisonment with or without hard labour not exceeding three months, or both.

XXXVIII. Every Vender of Stamps shall without delay deliver any Stamp which he has in his possession for sale, on demand by any person tendering the value in any currency which the Vender is duly authorized to receive in payment for Stamps, on pain of a fine not exceeding one hundred Rupees.

XXXIX. Any Vender who demands or accepts for any Stamp any consideration other than the value thereof in such

Stamp Vender accepting any consideration other than that authorized.

currency as he is duly authorized to receive in payment for Stamps shall be punished by a fine not payment exceeding one hundred Rupees.

XL. Any Vender who demands or accepts for Stamp Vender accept- any Stamp any consideration exceeding the value of such Stamp, shall be punished by imprisonment with or without hard labour for a period not exceeding six months, or by a fine not exceeding ten times the value so demanded or accepted, or by both, and it shall be in the discretion of the Court or Officer passing the sentence to direct the value of the excess to be refunded out of such fine to any person from whom such excessive consideration may have been accepted.

XLII. Any Vender or other person who, after Illegal sale of old Stamps. any period which may have been appointed by the Governor-General of India in Council for the commencement of the use of new Stamps, sells any old Stamps, shall be punished by a fine not exceeding one hundred Rupees.

XLIII. If any Vender refuse or omit to render Stamp Vender refusing any account required by or omitting to render accounts. the provisions of any bond he may have entered into, or to permit the Collector of the Stamp Revenue of the District or any Officer duly authorized by him to inspect his accounts or to examine the store of Stamps in his possession, it shall be lawful for such Collector to proceed against such Vender for the recovery of the value of the balance of Stamps standing against him in the books of such Collector, or for the recovery of the balance of money standing against such Vender in the said books, in the same manner as Collectors of Land Revenue are authorized by law to proceed against persons owing revenue or rent to Government.

XLIII. Any Vender who, upon the determination or resignation of his license, does not, within such reasonable time as shall have been prescribed by the Collector of the Stamp Revenue of the District, make over to some Officer duly authorized to receive the same an account of all his transactions in relation to Stamps kept according to the provisions of any bond he may have entered into, together with any Stamps remaining, or which ought to be remaining in his hands, and any balance of cash which may be due from him to Government on the above-mentioned accounts shall be liable to a fine not exceeding five hundred Rupees; provided always that no Vender shall, by the payment of such fine, be exempt from any punishment provided by law for any embezzlement of which he may have been guilty, or from such proceeding as by the last preceding Section the Collector of the Stamp Revenue of the District is empowered to adopt for the recovery of the value of any Stamps or balance of cash remaining in the hands of or standing against such Vender.

XLIV. Upon the death of any Vender, his Executor or Administrator or in case there be no Executor or Administrator, any other person in possession of such Vender's effects shall, upon demand being made by the Collector of Stamp Revenue of the District or any

Officer duly authorized by him, make over within a reasonable time to such Collector or Officer as aforesaid any Stamps which the deceased Vender shall have received and shall not have issued at the time of his death, and any account of the transactions of such deceased Vender in relation to Stamps which shall have been kept according to the provisions of any bond which such deceased Vender may have entered into, of which Stamps and account such Executor, Administrator, or other person may have the possession, or be able to obtain the possession, on pain of a fine not exceeding five hundred Rupees.

XLV. The Collector of Stamp Revenue of the District may call upon the Proceedings against surety of a Vender of such Stamps to make good the value of the balance of Stamps standing against such Vender in the books of such Collector, or the balance of money standing against such Vender in the books of such Collector, and on his failure to do so may proceed against such surety for the recovery of the value of the balance of Stamps, or for the recovery of the balance of money as aforesaid, in the same manner as Collectors of Land Revenue are authorized by law to proceed against the surety of a person owing revenue or rent to Government.

XLVI. No person not being a licensed Vender Unlicensed sale of Stamps. shall sell any Stamp unless it has been in an authorized manner obtained for use and not for sale under pain of a fine not exceeding one hundred Rupees; provided that nothing in this Section shall be held to apply to any adhesive Stamp, or to any Stamp used for a Receipt, Bill of Exchange, Promissory Note, or other Order for money, or to an Agreement for a loan falling under Article 13 of the Schedule A annexed to this Act, or to a Bill of Lading.

XLVII. Clause 1.—If any Stamp Paper, after having been obtained in the manner allowed by this Act, shall have become damaged, spoiled, or unfit for use either by any accident happening to the same, or because of some error in the drawing up or copying of any Deed, Instrument, or Writing thereupon, which being discovered before such Deed, Instrument, or Writing shall be finally signed and executed, renders the same of no avail; or when by reason of the death or refusal of the party whose signature may be necessary to effect the transaction intended by such Deed, Instrument, or Writing it remains incomplete and of no avail; or when by the refusal of any office or trust that may be granted by a Deed, Instrument, or Writing it has failed of the purpose intended; or if any Deed, Instrument, or Writing duly stamped shall not have been finally executed by reason of any accident having happened to the same or because of some error in the drawing up or copying thereof having been discovered the same is rendered of no avail; or if by reason of failure of consideration, the transaction intended by such Deed, Instrument, or Writing cannot be effected, or such transaction has been effected by some other Deed, Instrument, or Writing duly stamped, or in the case of a Promissory Note, Bill of Exchange, or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same is never brought to use, and in the case of a

Bill of Exchange *other than a Bill drawn in sets as provided in this Act* if it shall not have been presented for acceptance; in all such cases it shall be competent to the Collector of the Stamp Revenue of the District, upon delivery being made of such Stamped Paper, so damaged, spoiled, or rendered unfit for use, to cause a similar Stamp or Stamps of equal value to be delivered to the owner of such Stamp Paper, so damaged, spoiled, or rendered unfit for use, or to his representative, upon payment of the value of the Paper, on which the new Stamp shall be impressed. The provisions of this Section shall not extend to any Bill of Exchange drawn in a set, if any one of such set shall have been delivered to the payee.

Clause 2.—The owner of any Stamp which shall be damaged, spoiled, or rendered unfit for use as aforesaid, shall prefer his application to the Collector of Stamp Revenue of the District in which he may have purchased the same, and if such Collector be of opinion that the application ought to be complied with, he shall deliver or cause to be delivered, subject to the provisions of this Act, to the party or his representative, a Stamp similar or of equal value to that which has been damaged, spoiled, or rendered unfit for use. Provided that the application be made within one year of the period when the Stamp shall have become damaged, spoiled, or rendered unfit for use.

Clause 3.—In any case in which under this Section a Collector may give a new Stamp in lieu of a Stamp damaged, spoiled, or rendered unfit for use, he may, if he shall see fit, re-pay to the party making the application the amount of such Stamp in money.

XLVIII. Clause 1.—From the time when this Act shall come into force in case of the sale of any land, annuity, or other property, real or personal, not being a share of any Banking Corporation or Joint Stock Company, when the same is transferred by simple endorsement, or of any right, title, interest, or claim in any such property, when a Duty is imposed by this Act on the conveyance thereof, the full purchase or consideration money directly or indirectly paid, or secured or agreed to be paid for the same, shall be truly expressed and set forth in words at length in the principal Deed, Instrument, or Writing, whereby the property sold shall be conveyed to or vested in the purchaser or in any other person; and if the full purchase or consideration money shall not be fully and truly expressed and set forth in the manner above directed, the purchaser and seller shall each forfeit a sum not exceeding five hundred Rupees, and be charged with the payment of five times the amount of the excess of Duty which would have been payable for such Deed, Instrument, or Writing, in respect of the full purchase or consideration money, if the same had been duly expressed in such Deed Instrument, or Writing, beyond the amount of Duty actually paid for the same.

Clause 2.—If any person shall, knowingly and wilfully insert or set forth in any such Deed, Instrument, or Writing, any less

than the true purchase amount than the full and money. true purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same, he shall incur the penalties prescribed in the preceding *Clause* of this Section.

XLIX. No person shall be proceeded against for any offence affecting the Public Revenue under this Act, except at the suit or prosecution of the Collector of the Stamp Revenue of the District or other Officer specially authorised by the Government in that behalf.

L. Every offence punishable by this Act may be tried by any Officer exercising the powers of a Magistrate or of a Subordinate Magistrate of the 1st Class as defined in the Code of Criminal Procedure, or by a Justice of the Peace.

LI. If any person sentenced to a fine under the provisions of this Act shall not pay the fine to which he shall be sentenced, it shall be lawful for the Magistrate or Justice of the Peace who passed the sentence to issue his warrant to levy the amount by distress and sale of the goods and chattels of the party fined, or to sentence the offender to imprisonment until the payment of the fine or the expiration of a term to be assigned, not exceeding three months, whichever shall first take place.

LII. A share not exceeding one-half of every fine imposed and recovered under this Act may be awarded by the Magistrate or Justice of the Peace imposing the fine to the informer.

LIII. Throughout this Act and the Schedules annexed to it, the word "Stamp," except when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; and by the "value" of a Stamp is meant a sum indicated by words or figures duly impressed upon such piece of paper or other material. The term "Bill of Exchange" includes a Hoondee or any other Instrument of a like nature. The word "Deed" includes every Instrument of the nature of a Deed whether under a Seal or not. The word "Paper" includes Parchment, Vellum, or other similar material. The word "Sheet" denotes a stamped paper or other material of the size prescribed by the Governor-General in Council under Section IV. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "Month" means a Calendar month.

LIV. This Act shall come into force from the 1st of May 1862.

Commencement of Act.

SCHEDULE A.

Containing a specification of the Deeds, Instruments, and Writings which require to be stamped under this Act, and of the proper Stamps for such Deeds, Instruments, and Writings.

PROPER STAMPS.

1. Agreement, or any Minute or Memorandum of an Agreement, not being of the nature of a Bond or other Obligation for the payment of money, or of a Conveyance, or of a Deed of Mortgage, Gift, or Dower, and not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the parties.

NOTE.—If two or more letters are offered in evidence to prove an Agreement between the parties who shall have written such letters, it will be sufficient if any one of such letters be stamped as an Agreement.

If the Agreement, or Minute, or Memorandum be of the nature of a Bond or other Obligation for the payment of money, or of a Conveyance, or of a Deed of Mortgage, Gift, or Dower

1 Rupee.

The same Stamp as prescribed by this Schedule for such Instrument.

2. Agreement for an annual or any periodical payment

The same Stamp as for a Bond for the amount of ten years' payment, or of the total sum secured if less.

3. Agreement, or Minute, or Memorandum for a lease, or of the terms and conditions on which any land, house, or other real property is let, held, or occupied

The same Stamp as for a Lease for the same property on the same terms and conditions.

Provided that any lease afterwards made of the same land, house, or other real property in pursuance of such Agreement, Minute, or Memorandum, shall be chargeable with a Stamp Duty of 8 Annas only, to be denoted by a Stamp, which shall be affixed to such lease by the Collector of Stamp Revenue of the District upon the production of the Agreement, Minute, or Memorandum bearing the proper Stamp, and not otherwise.

4. Agreement to cultivate, manufacture, produce, provide, or deliver any article in consideration of advance made—

Rupees.	Annas.
0	1
0	2
0	4
0	8
1	0

If the amount advanced do not exceed 50 Rupees

If it exceed 50 Rupees but do not exceed 100 Rupees

If it exceed 100 Rupees but do not exceed 200 Rupees

If it exceed 200 Rupees but do not exceed 500 Rupees

If it exceed 500 Rupees

5. Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, Share, in any Joint Stock Company, or Bill of Exchange to the amount or value of 100 Rupees

1 Anna.

Exemptions.

Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, Share in any Joint Stock Company, or Bill of Exchange, if not of the amount or value of 100 Rupees

Agreement or contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale of any goods or merchandise.

6. Agreement for the hire of a Steamer for Tugging a vessel, if for a single trip within the limits of the Port

8 Annas.

Beyond the limits of the Port

1 Rupee.

7. Agreement for service or personal employment by the month or for any longer period—

If the amount of monthly salary or wages secured by such Agreement do not exceed in value 5 Rupees

1 Anna.

If the amount so secured exceed 5 Rupees but do not exceed 20 Rupees

4 Annas.

If the amount so secured exceed 20 Rs. but do not exceed 60 Rs.

8 Annas.

In any other case

1 Rupee.

PROPER STAMPS.

EXEMPTION.

Agreement for service or personal employment for any period less than a month.

8. Affidavit or solemn declaration not made for the immediate purpose of being filed, read, or used in any Court of Justice, per sheet

9. Assignment if not of the nature specified under the head of Conveyance or Settlement, nor specially exempted—

In any case where the Assignment is of any interest secured by an original Deed, Instrument, or Writing on a Stamp of a value less than eight Rupees

In any other case

Exemption.

Transfer by mere endorsement of a Bill of Exchange, Promissory Note, or other negotiable Instrument, or of a Bill of Lading; and transfer by Assignment of a Policy of Insurance.

10. Bill of Exchange, Letter of Credit, Draft, Cheque, Promissory Note, Hoondee, or other order or obligation for the payment of money not being a Bond, Instrument, or Writing bearing the attestation of one or more witnesses—

If payable on demand and bearing the date on which it is made, and if the sum payable exceed twenty Rupees

If payable at any period not exceeding one year after date or sight—

When not exceeding	100 Rupees
When exceeding 100 and not exceeding	250 "
" 250	500 "
" 500	1,000 "
" 1,000	2,500 "
" 2,500	5,000 "
" 5,000	10,000 "
" 10,000	20,000 "
" 20,000	30,000 "

And for every further 10,000 Rs., or for any part of every further 10,000 Rs. if drawn singly, 6 Rs. in addition; if drawn in a set of two, each to be stamped, 3 Rs. in addition; if drawn in a set of three, each to be stamped 2 Rupees in addition.

If drawn in a set of more than three, each of the set in excess of three to be stamped, as required for each one of a set drawn in a set of three.

If not drawn singly each of the set shall state that it is drawn in a set of two or three, and shall denote on the face thereof that it is the first, second, or third of the set, as the case may be.

If payable at a period exceeding one year after date or sight.

11. Bill of Lading of or for any goods to be exported.

Bill of Sale—See Conveyance and Mortgage.

12. Bond or other obligation for the payment either absolutely or conditionally of any definite or certain sum of money, not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule—

1 Rupee.

The same Stamp as the original Deed.

8 Rupees.

1 Anna.

If drawn singly.		If drawn in a set of two, each to be stamped.			If drawn in a set of three, each to be stamped.		
Rs.	as.	Rs.	as.	p.	Rs.	as.	p.
0	1	0	1	0	0	1	
0	3	0	1	6	0	1	
0	6	0	3	0	0	2	
0	12	0	6	0	0	4	
1	8	0	12	0	0	8	
3	0	1	8	0	1	0	
6	0	3	0	0	2	0	
12	0	6	0	0	4	0	
18	0	9	0	0	6	0	

The same Stamp as for a Bond for the payment of the same amount.

4 Annas for a single Bill, Acknowledgment, or Instrument, or each part of every set of the same.

PROPER STAMPS.

			Rupees.	Annas.
If for any sum not exceeding	50 Rupees ..		0	4
Above 50 Rupees and not exceeding	100 " ..		0	8
" 100 " ditto	200 " ..		1	0
" 200 " ditto	300 " ..		2	0
" 300 " ditto	500 " ..		4	0
" 500 " ditto	700 " ..		5	0
" 700 " ditto	1,000 " ..		6	0
" 1,000 " ditto	2,000 " ..		10	0
" 2,000 " ditto	3,000 " ..		15	0
" 3,000 " ditto	5,000 " ..		25	0
" 5,000 " ditto	10,000 " ..		35	0
" 10,000 " ditto	20,000 " ..		60	0
" 20,000 " ditto	40,000 " ..		100	0
" 40,000 " ditto	60,000 " ..		125	0
" 60,000 " ditto	80,000 " ..		150	0
" 80,000 " ditto	1,00,000 " ..		200	0
And for every further part of	1,00,000 " ..		100	0
And for every further	1,00,000 " ..		200	0

13. Bond or Agreement for a loan made upon the deposit of *Title Deeds* or a *Note* or other Security of the Government of India, Share or *Debenture* of any Railway or Joint Stock Company, Bill of Lading, Warrant for goods deposited in a Bonded or other Warehouse, or Assignment of any Goods with or without a deposit of the acceptance or promissory Note of the borrower. Provided that no such Agreement is drawn in the form of a Bond or of a Bill of Exchange or Promissory Note, or in any such way as would render it a negotiable instrument passing by endorsement, for whatever amount, in case the period of such loan shall not exceed one month

1 Rupee.

If such loan is for a period exceeding one month and not exceeding two months

2 Rupees.

If such loan is for a period exceeding two months and not exceeding three months

4 Rupees.

14. Bond or other Obligation concerning respondentia and bottomry

The same Stamp as for a money Bond for the like amount.

15. Bond or other Obligation given as security for the transfer of any Government Security or Stock of any Public Company, or for the delivery or accounting for any matter or thing capable of being valued

The same Stamp as for a Bond for the payment of the amount engaged to be paid or accounted for, or of the value of the thing to be delivered or transferred.

16. Bond or other Obligation for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond or other Obligation, whether for a fixed or for an indefinite period of ..

The same Stamp as for a Bond for the payment of a sum equal to ten times the yearly payment, or of the total sum secured, if less.

17. Bond or other Obligation when the amount the money to be secured is not specified

An optional Stamp—See Section XXVI. of the Act.

When the amount is limited to a certain sum

The same Stamp as for a Bond for the payment of such limited sum.

18. Bond or other Obligation for the due execution of an office or work, and any other Bond not otherwise specially provided for

An optional Stamp—See Section XXVI. of the Act.

19. Bond or other obligation taken as collateral security with some Deed or Instrument executed on the Stamp prescribed for a Conveyance or Money Bond, or as security for the performance of any other Contract, Covenant, or Agreement, not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand

The same Stamp as the Deed, Instrument, Contract, Covenant, or Agreement, if of value not exceeding 8 Rupees; otherwise a Stamp of 8 Rupees.

20. Certificate, that is to say, a document denoting or intended to denote the right or title of the holder thereof, or any person, to any Share or Shares or Scrip in any Joint Stock or other Company, or proposed or intended Company; or any Certificate declaring or entitling the holder thereof, or any person, to be or become the proprietor of a Share or Shares or Scrip of or in any such Company

1 Anna.

21. Charter-party, or any Agreement or Contract for the Charter or hiring of any sea-going Ship or Vessel

2 Rupees.

PROPER STAMPS.

22. Composition Deed, or other Instrument of Composition, between a debtor and his creditor } 8 Rupees.

23. Conveyance or Deed or Instrument of any kind or description whatsoever, executed for the sale or transfer, for a consideration, of any land, tenement, rent, annuity, or other property, real or personal, movable or immovable, or of any right, title, or claim to or upon, or interest in, any land, house, rent, annuity, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the property sold shall be conveyed to, or otherwise vested in the purchaser, or to some other person by his direction—

When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees } 1 Rupee.

Above	100 Rupees and not exceeding	200 Rupees	Rs.	As.
"	200	ditto 400	2	0
"	400	ditto 800	4	0
"	800	ditto 1,200	8	0
"	1,200	ditto 2,000	12	0
"	2,000	ditto 3,000	20	0
"	3,000	ditto 4,000	30	0
"	4,000	ditto 5,000	40	0
"	5,000	ditto 7,500	50	0
"	7,500	ditto 10,000	75	0
"	10,000	ditto 20,000	100	0
"	20,000	ditto 40,000	150	0
"	40,000	ditto 60,000	200	0
"	60,000	ditto 80,000	300	0
"	80,000	ditto 1,00,000	400	0
"	And for every further	50,000	500	0
"	Or part thereof		200	0
			100	0

24. Conveyance when the consideration is an annuity ..

The same Stamp as for a Conveyance when the purchase money is equal to ten times the annuity.

25. Conveyance of any kind whatever not otherwise charged, if the value of the property conveyed or of the consideration for the Conveyance be stated or appear on the face of the Conveyance

The same Duty as would be charged if a consideration in money equal to such value were expressed in the Conveyance as the consideration thereof.

If no value appear on the face of the Conveyance ..

50 Rupees.

26. Conveyance or Transfer of a Share of a Banking Corporation or Joint Stock Company whether by Deed or endorsement, when the market value of the Share transferred does not exceed 100 Rupees, per Share

4 Annas.

When it exceeds 100 Rupees and does not exceed 200 Rupees ..

8 Annas.

When it exceeds 200 Rupees and does not exceed 300 Rupees ..

12 Annas.

When it exceeds 300 Rupees and does not exceed 400 Rupees ..

1 Rupee.

And for every 100 Rupees a further Duty of 4 Annas, and for the conveyance or transfer of every quarter or half of any such Share, a corresponding rate of Duty.

EXEMPTION.

All transfers of subscription to any of the Government Loans, or other Government Securities,

27. CO-PARTNERSHIP.—Deed or other Instrument of ..

8 Rupees.

28. COPY.—Copy or extract of any Deed, Instrument, or Writing attested or certified to be a true copy or extract, and furnished for the purpose of being given in evidence in any Civil or Revenue Proceeding or made for the security or use of any person being a party to, or taking any benefit or interest immediately under such Deed, Instrument, or Writing ..

The same Duty as prescribed for the original Deed, Instrument, or Writing by this Schedule.

NOTE.—Every copy bearing the proper Stamp which shall at any time be offered in evidence shall be deemed to have been made for that purpose.

29. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the Deed, Instrument, or Writing, per sheet

8 Annas.

PROPER STAMPS.

30. Copy, attested or certified to be a true copy or made for the purpose of being given in evidence in any Civil or Revenue Proceeding, of any Will, Testament, or Codicil, or of any Probate or Probate Copy of any Will or Codicil, or of any Letter of Administration, or of any confirmation of any Testament, Testamentary, or Dative, or of any part thereof respectively

1 Rupee.

31. Copy or Extract of any Deed, Instrument, or Writing annexed to any Deed, Instrument, or Writing

The same Stamp as the Deed, Instrument, or Writing from which the copy or extract is made, if of value not exceeding 8 Annas; otherwise 8 Annas per sheet.

32. Copy, authenticated or certified, of any record, letter, account, statement, report, or other writing, furnished to any individual from any Government Office, per sheet

8 Annas.

For copies of Judicial or Revenue Papers given from Courts of Justice, Revenue Offices, &c.

See Schedule B.

EXEMPTION.

Copy of any paper which any Public Officer is required to make or furnish, for which a Stamp is not specially required by this Schedule.

33. COVENANT.—Any separate Deed of Covenant made on the sale or mortgage of any immovable property, or of any right or interest therein (the same not being a Deed chargeable with *ad valorem* Duty under the head of Conveyance in this Schedule) for the conveyance, assignment, surrender, or release of such property, right, or interest, or for the title to or quiet enjoyment, freedom from incumbrance, or further assurance of such property, right, or interest, or otherwise by way of indemnity in respect of the same, or for the production of the Title Deeds, or Muniment of Title relating thereto, or for all or any of those purposes.

10 Rupees.

34. Deed of Gift or Dower whether to take effect on the instant, or at a future period, determinate or indeterminate

The same Stamp as for a Conveyance.

35. Deed of any kind not otherwise charged or expressly exempted from Stamp Duty by this Schedule

As an Agreement.

36. Duplicate, or counterpart of any Deed, Instrument, or Writing, of any description whatever, chargeable with Duty under this Act

The same Duty as the original when such Duty does not exceed 8 Annas.

If the Duty chargeable on the original exceed 8 Annas, but do not exceed 10 Rupees

1 Rupee.

If the Duty chargeable on the original exceed 10 Rupees, but do not exceed 50 Rupees

2 Rupees.

If the Duty chargeable on the original exceed 50 Rupees

5 Rupees.

Provided that such duplicate or counterpart Stamp shall be affixed by the Collector of Stamp Revenue of the District upon the production of the original Deed bearing its proper Stamp and not otherwise.

EXEMPTION.

Counterpart of a lease executed by a ryot or other actual cultivator of the soil, provided that no fine or premium be paid as part of the same transaction.

(For Madras and Bombay.)

Counterpart of a lease executed between landlord and tenant relative to lands in the Presidency of Madras or Bombay subject to the payment of Revenue to Government.

A Counterpart of a lease includes a Kubuleut and the like.

37. EXCHANGE.—Any Deed, Instrument, or Writing whereby any real property shall be conveyed or surrendered in exchange for other property

The same Stamp as for a Conveyance.

38. LEASE.—Any lease made in perpetuity, or for a term of years, or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent

The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration.

39. Any lease of any land, house, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

Where the rent calculated for a whole year shall not exceed in value 24 Rupees	
Exceeding 24 Rupees but not exceeding 50 Rupees ..	..
50 " " " 100 " " " ..	..
100 " " " 250 " " " ..	..
250 " " " 500 " " " ..	..
500 " " " 1,000 " " " ..	..
1,000 " " " 2,000 " " " ..	..
2,000 " " " 4,000 " " " ..	..
4,000 " " " 6,000 " " " ..	..
6,000 " " " 10,000 " " " ..	..
10,000 " " " 25,000 " " " ..	..
25,000 " " " 50,000 " " " ..	..
and for every additional 25,000, or for any part of every additional 25,000 Rupees.. .. .	..

40. Any lease of any land, house, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium.. .. .

41. Any lease of any land, house, or other real property, stipulating for a rent, granted in consideration of a fine or premium.

EXEMPTIONS.

Any lease executed to a ryot or other actual cultivator : provided that no fine or premium be paid as part of the same transaction.

(For Madras and Bombay.)

Every lease or other engagement executed between landlord and tenant, relative to land, in the Presidency of Madras or Bombay, subject to the payment of Revenue to Government.

42. Letter, or power of Attorney, not being of the kinds provided for in Schedule B

If the Letter or Power of Attorney be for the performance of one act only and value of the property to be dealt with be expressed in the Letter or Power and do not exceed 500 Rupees ..

43. Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an *ad valorem* Stamp under this Act

If given for securing any sum of money exceeding 500 Rupees, for which the person giving the same shall then be in actual custody under an arrest on mesne process or in execution

If given as such collateral security as above-mentioned ..

NOTE.—For Wakalatnamahs, Mooktarnamahs, and other powers required to be filed for the conduct of suits, or proceedings of any kind pending before the Courts of Justice or before the Revenue Authorities

44. Letter of license from a creditor to his debtor ..

45. MORTGAGE.—Any Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation, or of any Acknowledgment in the nature of a Mortgage, Conditional Sale, Pledge, or Hypothecation of or in respect of any immovable property with or without possession given or of any personal property without possession given, intended as a security for money due or to be lent thereupon; also any Deed or Contract accompanied with a deposit of title deeds to any property, where the same may be made as security for payment of money due or lent at the time.. .. .

PROPER STAMPS.

When the lease is for a period not exceeding one year.	When the lease is for a period exceeding one year.
Rs. As.	Rs. As.
0 4	0 8
0 8	0 12
1 0	2 0
2 0	4 0
4 0	8 0
8 0	16 0
16 0	32 0
24 0	48 0
40 0	80 0
100 0	200 0
200 0	400 0
100 0	200 0

The same Stamp as for a lease for a period exceeding one year.

A Stamp of value equal to the joint value of the Stamps for a Conveyance in consideration of the fine, and a lease for the rent.

4 Rupees.

1 Rupee.

The same Stamp as for a Bond.

Rupees. Annas.

4 0

5 0

See Schedule B.

Rupees. Annas.

8 0

The same Stamp as for a Bond for the payment of the amount due or lent.

PROPER STAMPS.

46. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation, or of any Acknowledgment in the nature of a Mortgage, Conditional Sale, Assignment, Pledge, or Hypothecation given for a loan or advance made on the deposit of any personal property	The same Stamp as for a Promissory Note.	
47. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation with or without possession, given of any immoveable property, or of any right, title, or interest therein, intended as security for the transfer of a Government Security, or for the payment of an Annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued	The same Stamp as for a Bond for the payment of the total amount assured, or for the <i>bona fide</i> value.	
48. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation, with or without possession, given of any immoveable property, or of any right, title, or interest therein given for the security of an Annuity for an indefinite period, such as a Life Annuity	The same Stamp as for ten times the annual payment.	
Where it may be stipulated that the amount secured by such Mortgage shall not exceed a certain sum	The same Stamp as for a Deed of Mortgage of such limited sum.	
Where the total amount secured by the Mortgage is unlimited	An optional Stamp. See Section XXXI. of the Act.	
49. Deed of Mortgage where a Bond shall have been already taken for the amount secured, or where from any other cause the Mortgage shall act merely as a collateral security to some other transaction in which an Instrument requiring a Stamp has been executed	The same Stamp as for the Bond or other Instrument, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.	
NOTE.—Where there are more Deeds than one required to execute the Mortgage in the manner desired by the parties, then for every other Deed than the principal Deed: provided the original Deed has been duly stamped	The same Stamp as for the principal Deed if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.	
EXEMPTION.		
Letter of Hypothecation accompanying a Bill of Exchange.		
50. MORTGAGED PROPERTY.—Re-conveyance of	The same Stamp as for an Assignment.	
51. MORTGAGED PROPERTY.—Release of an equity of redemption of	The same Stamp as for a Conveyance.	
52. NOTARIAL ACT.—Any Notarial Act whatsoever not otherwise charged in this Schedule	Rupees.	Annas.
	2	0
53. Partition by private agreement, or made by a Public Officer of an estate or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, for each sharer's copy of the Deed of partition—		
When the sharer's portion does not exceed one hundred Rupees in value	0	8
Exceeding 100 Rs. and not exceeding 200 Rs.	1	0
" 200 " ditto 400 " 	2	0
" 400 " ditto 600 " 	4	0
" 600 " ditto 800 " 	6	0
" 800 " ditto 1,000 " 	8	0
And for every additional four hundred Rupees, or part thereof	2	0
When the subject of the partition, consisting either wholly or in part of other property than money, and money not being part of such subject is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject	A Stamp of value equal to the joint value of the Stamp which would have been required had the subject of partition been actually divided with the just proportion, and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid for the purpose of compensating the difference therefrom.	
54. Policy of Insurance, or other Instrument, by whatever name the same shall be called, whereby an Insurance shall be made upon any life, or upon any event depending upon any life or against loss or damage by fire upon any building or property, not of the description mentioned in Article 55—		
For every sum of one thousand Rupees, and also for each and every fractional part of one thousand Rupees	Rupees.	Annas.
	0	8
55. Policy of Insurance of any ship, vessel, sloop, lighter-boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter; boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured.—		

	PROPER STAMPS.	
	If executed singly.	If executed in sets of two, each to be stamped.
If the whole sum insured shall not exceed one thousand Rupees	Annas. 0 8	Annas. 0 4
If the sum insured exceed one thousand Rupees, for every one thousand Rupees eight Annas if executed singly; and if executed in a set of two, four Annas for each number.		
	If executed singly.	If executed in sets of two, each to be stamped.
	Rupees.	Annas.
Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand Rupees	1 0	0 8

If the sum insured exceed one thousand Rupees, for every one thousand Rupees, and also for any fractional part of one thousand Rupees whereof the same shall consist, one Rupee if executed singly; and if executed in a set of two, eight Annas for each number.

If drawn in a set of more than two, each of the set in excess of two to be stamped as required for each one of a set drawn in a set of two.

Note.—A Letter of cover or engagement to issue a Policy of insurance does not require a Stamp. Provided that, unless such letter or engagement bear the full Stamp prescribed for a Policy of Insurance, no money shall be paid or payable upon it; nor shall it be filed, exhibited, or recorded in any Court in India otherwise than to compel the delivery of a Policy on the prescribed Stamp.

Promissory Note.—See Bill of Exchange.

56. Promissory Note for the payment of any sum by instalments, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain

57. Protest of any Bill of Exchange or Promissory Note for any sum of money

58. Protest of any Commander or Master of a vessel

59. Protest. Notice of intention of—of any Commander or Master of a vessel

60. Receipt or discharge given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, or acquitted, exceeds twenty Rupees

The same Stamp as for a Bond for the payment of the whole amount.

Rupees.	Annas.
2	0
2	0
0	8
0	1

GENERAL EXEMPTIONS.

Letter sent by post acknowledging the arrival of a *Cur-rency* or Promissory Note, Bill of Exchange, or any Security for money.

Receipt or discharge for the rent of land paying Revenue to Government, granted to any ryot or other actual cultivator for the rent of land cultivated by him.

Receipt or discharge written upon any Promissory Note, Bill of Exchange, Draft, or Order for the payment of money, duly stamped.

Receipt or discharge written upon or contained in a Mortgage Deed, or other Security, or a Deed of Conveyance, Settlement, Personal Bond, or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed or the receipt of any principal money, interest, or annuity thereby charged.

PROPER STAMPS.

Receipt given for money deposited in any Bank, or in the hands of any Banker, to be accounted for, whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided always that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of any allotment of a share, in respect of a call upon any scrip or share of or in any Joint Stock or other Company, or proposed or intended Company, which last-mentioned receipt or acknowledgment, by whomsoever given, shall be liable to the Duty charged upon a receipt.

Rupees. *Annas.*

61. Release to an Executor or Trustee from his trust ..

10 0

62. Schedule referred to in any Agreement, Lease, Bond, Deed, or other Instrument, per sheet }

0 8

63. Settlement, Marriage Settlement, &c., namely, any Deed or Instrument, whereby any sum of money, or any Government Security or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person, in any manner whatsoever }

The same Stamp as for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate, an optional Stamp—See Section XXVI. of the Act.

64. *Shipping order for or relating to the conveyance of any goods on board of any Ship or Vessel* }

1 Anna.

65. WARRANT.—Bonded Warehouse }

8 Annas.

GENERAL EXEMPTIONS.

Any Deed, Instrument, or Writing of any kind made or executed by or on behalf of the Government by any Government Board, Commission, Court, Officer, or Agent.

Note.—The foregoing exemption does not extend to any Deed, Instrument, or Writing, executed to or by a Court of Wards, Local Agent, or Officer acting under the authority of any such Court or Agent, or to or by any Administrator General or a Receiver appointed by any Court; neither does it extend to a sale made for the recovery of an arrear of revenue or rent, or in satisfaction of a decree or order of Court,—in any of which cases the purchaser shall be required to pay, along with the purchase money, the price of the requisite Stamp, or else provide such Stamp, and shall receive from the Officer conducting the sale a Deed of Sale executed on the proper Stamp.

Renunciation of land executed by a Ryot or other actual cultivator of the land to his landlord.

Will, Testament, and the like, together with a Deed merely declaratory of trust or appointment or apportionment or otherwise in execution of powers, or pursuant to any previous Settlement, Deed, or Will.

NOTE.—(a) Any Deed, Instrument, or Writing required by the foregoing Schedule to be stamped, may be written on one or more Stamps, if the value of the Stamps used amount to the value required by the Schedule.

(b) When of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed. In any case, however, where there are more Deeds than one, every other Deed than the principal requires the same Stamp as the principal Deed, if of value not exceeding eight Rupees (which shall be the maximum Stamp for collateral Deeds); and every such collateral Deed shall specify by its contents which other is the principal Deed by which the Conveyance has been effected, certifying that it is executed on the proper Stamp.

SCHEDULE B.

Referred to in Section XXIX. of the Act, containing the Specification of Duties chargeable on Law Papers.

Application.—See Rezenamah.

1. Application presented to the Collector of Customs at any Presidency Town, and application presented to the Municipal Commissioners, or to any Magistrate, or Justice of the Peace, under Act XIV. of 1855 (for the Conservancy and Improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales's Island, Singapore, and Malacca)

1 Anna.

2. Bail or Security Bond, or other Obligation, whether of specified amount or with a penalty of a specific sum of money, or of indefinite amount, when taken by or by order of any Court of Justice, or by any Revenue Authority

Rupees. Annas.
0 8

EXEMPTION.

Bail Bonds in Criminal cases, Recognizances to prosecute or give evidence, and personal recognizances for appearance or otherwise.

3. Certificate granted under Act XXVII. of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), if the debt or other property in respect to which the Certificate is granted is sworn not to exceed 500 Rupees.

4 0

If exceeding 500 Rupees, but not exceeding 1,000 Rupees.

8 0

And for every additional 1,000 Rupees or any part of every additional 1,000 Rupees

4 0

The party to whom such Certificate is granted, or his heir or representative, shall, after the expiration of twelve months from the date of such Certificate, and thereafter whenever the Court which granted such Certificate shall require him so to do, file a statement of all moneys recovered or realized by him under such Certificate, and if the moneys so recovered or realized shall exceed the amount of the debts or other property as sworn to by the person to whom such Certificate is granted, the Court may cancel the Certificate and order such person to take out a fresh Certificate on the Stamp prescribed by this Article for such enhanced amount. In default of furnishing such statement within the time allowed the Court may cancel the Certificate.

4. Copy of Decree if passed in any Court below the Sudder Court, or in any Revenue Court in any suit in which the value of the claim amounts to fifty Rupees, or in any regular appeal

1 0

If passed in the Sudder Court in any suit or appeal

4 0

5. Copy of a Judgment or order not being a Decree if passed by a Court below the Sudder Court, or in any Revenue Court

0 8

If passed by the Sudder Court

1 0

EXEMPTION.

Copy of any Judgment, Decree, or Order, if passed otherwise than on appeal in any Court below the Sudder Court, in any suit, or in relation to any suit, or in any Revenue Court, in which the value of the claim does not amount to fifty Rupees.

6. Copy of any Revenue or Judicial Proceeding or Order, or Copy of any Account, Statement, Report, or the like, filed on record and taken out for use or reference, or when left on Proceedings in place of the original withdrawn,—per sheet

0 2

Letters of Administration.—See Probate.

7. Mooktarnamah, Wakalutnamah, and other powers, filed or presented for the conduct of any case in any Court of Justice, or before any Revenue Authority, or before the Revenue Authorities—

		PROPER STAMPS.	
		Rupees.	Annas.
When presented to the Sudder Court		2	0
When presented to the Board of Revenue or other Chief Controlling Revenue Authority		2	0
When presented to a Commissioner of Revenue, or to a Commissioner of Customs, not being the Chief Controlling Revenue Authority		1	0
When presented to any Court, Civil or Criminal, other than the Sudder Court, or to any Collector or other Revenue Officer		0	8

EXEMPTIONS.

Mooktarnamahs executed by an Officer or Soldier of the Army.

No Stamp is required where Counsel is admitted in any case by any Criminal Court to appear on behalf of a prisoner without a written Mooktarnamah.

8. Petition of appeal not being from an Order rejecting a plaint, or from a Decree or Order having, by any law, the force of a Decree; and petition or application presented to any Civil Court, shall be written upon Stamp Paper of the following value, viz. :—

When presented to the Sudder Court	2	0
When presented to any Court below the Sudder Court ..	0	8

SPECIAL RULE FOR BENGAL.

9. Petition of Appeal to the Board of Revenue, or other Chief Controlling Revenue Authority	2	0
Any other petition or application to the Board of Revenue or other Chief Controlling Revenue Authority	1	0
Petition or application not falling within any of the other provisions, or of the exemptions of this Schedule, presented to any other Criminal Court, or to any other Revenue Office.	0	8

GENERAL EXEMPTIONS.

Petition or application presented to any Moonsiff's Court or to any Cantonment Joint Magistrate sitting as a Court of Civil Judicature, under Act III. of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds*), or to any Court of Small Causes constituted under Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), in relation to any suit or case of an amount or value less than fifty Rupees, or to a Collector or Deputy Collector in relation to any suit or case of the same amount or value tried under Act X. of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*).

Application for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of any exhibit.

Petition of appeal presented to a Magistrate against the Chowkeedary Assessment.

Communication made to a Magistrate in regard to Police matters not intended for record.

Petition to a Collector or Officer making a settlement, relating to matters connected with the assessment of lands, the ascertainment of rights, or to any other matter affecting the settlement of the Government Revenue on land, if presented pending the formation of such settlement.

Petition to a Board or Commissioner of Revenue relating to the same.

All petitions, applications, charges, and informations respecting crimes and offences. Petitions from prisoners, convicts, persons under examination or otherwise in duress or under restraint of the Court or its Officers.

PROPER STAMPS.

EXEMPTION FOR THE PRESIDENCIES OF MADRAS AND BOMBAY.

No petition or application to the Revenue Authorities need be presented on Stamp Paper, except as prescribed in the Special Rule given at the close of this Schedule with respect to cases that fall within Regulation VI. 1828 of the Bombay Code (*for extending in the same manner as in suits before the Courts of Civil Judicature Stamps to suits cognizable by Collectors under the operation of Chapter VIII. Regulation XVII. 1827, or any other now in force*).

10. PLAINT.—Petition of, in suits and appeals not otherwise provided for, instituted in any Civil Court not within the local limits of the jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money, or to obtain possession of any interest, matter, or thing.

SCALE FOR PLAINTS.

If the amount or value of the property claimed does not exceed				Rupees.	Annas
		16 Rupees	..	1	0
Above	16 Rupees and not exceeding	32	" ..	2	0
"	32	64	" ..	4	0
"	64	150	" ..	8	0
"	150	300	" ..	16	0
"	300	800	" ..	32	0
"	800	1,600	" ..	50	0
"	1,600	3,000	" ..	100	0
"	3,000	5,000	" ..	150	0
"	5,000	10,000	" ..	250	0
"	10,000	15,000	" ..	350	0
"	15,000	25,000	" ..	500	0
"	25,000	50,000	" ..	700	0
"	50,000	1,00,000	" ..	1,000	0
"	1,00,000		" ..	2,000	0

If the suit be instituted in a Military Court of Requests, or in the Court of a Cantonment Joint Magistrate under Act III. of 1859, and the amount or value claimed do not exceed 8 Rupees

If it exceed 8 Rupees but do not exceed 16 Rupees ..

If it exceed 16 Rupees but do not exceed 32 Rupees ..

If it exceed 32 Rupees

In suits for possession instituted under Section XV. Act XIV. of 1859.. .. .

NOTE.—(a.) In suits for lands paying revenue to Government, not situate within the Presidencies of Madras and Bombay, if forming one entire Mehal, or a specific portion thereof with a defined jumma, *subject to revision*, the value shall be assumed at the amount of the annual jumma payable to Government on account of the Mehal or portion thereof as aforesaid; and where the land has been assessed in perpetuity, at three times the amount of the annual jumma.

(b.) Within the Presidency of Madras, in suits for land paying Revenue to Government, the value of the property shall be assumed at the amount of the annual aggregate produce of the land computed as payable by the dependent Talookdars, Under-Farmers, and Ryots on account of the year in which the suit may be preferred.

(c.) Within the Presidency of Bombay in suits for land paying revenue to Government, the value of the property sued for shall be calculated at the amount of the annual assessment.

(d.) In suits for Lakhiraj, Enam, or Rent-free land, the value shall be calculated at eighteen times the aggregate annual rent payable by the Ryots or other Under-tenants of the land.

(e.) In suits instituted for houses, gardens, and other things of value, real or personal, not of the descriptions above specified; as well as for any interest in Malgozaree land, or for any other right or thing not capable of valuation under the above rules, the amount shall be computed according to the estimated selling price, or when no such estimate can be

The same Stamp as for a suit in any other Court.

A Stamp of one-fourth the value prescribed in the foregoing scale.

made, at the sum at which the plaintiff shall estimate the value of his suit; and suits for damages or compensation for injury sustained, and the like, shall be valued at the amount claimed by plaintiff.

(f.) If an appeal or plaint, which shall have been rejected by the Lower Court on any of the grounds mentioned in the *Code of Civil Procedure*, shall be ordered to be received, or if a suit shall be remanded in appeal for a second decision by the Lower Court, the Appellate Court shall grant to the Appellant a certificate, authorising him to receive back from the Collector the full amount of Stamp Duty paid on the petition of appeal.

SPECIAL RULE FOR THE PRESIDENCY OF BENGAL.

(g.) In suits instituted in the Courts of Collectors and Deputy Collectors under Act X. of 1859, for the recovery of arrears of rent or of money in the hands of an Agent, the statement of claim shall be written on paper bearing a Stamp of one-fourth the value prescribed for suits instituted in the Civil Courts, and in all other suits instituted in the Courts of Collectors and Deputy Collectors under the said Act, the statement of claim shall be written on paper bearing a Stamp of the value of 8 Annas. Provided that in every such suit in which a decree is passed, the full amount of Stamp Duty prescribed for suits instituted in the Civil Courts, shall be entered in the decree and shall be charged to the party cast or to the parties respectively in such proportions as the Court or Officer deciding the suit shall deem proper, and the sum not covered by the Stamp on the plaint shall be recoverable by the Collector of the District in the same manner and under the same rules as an arrear of revenue or rent.

11. *Probate and Letters of Administration granted by any Court, or certificate granted under Regulation VIII. 1827 of the Bombay Code (to provide for the formal recognition of Heirs, Executors, and Administrators, and for the appointment of Administrators and Managers of property by the Courts) or under Act XL. of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal).*

Rupees.	Annas.
4	0

12. Razeenamah, Rufanamah, Soolunamah, or the like, that is to say:—

Any written application whereby, or according whereunto, a suit pending in a Court of *Civil Judicature* shall be adjusted, or be capable of adjustment, without an award of the presiding Judge or other Officer

To be charged as in Petitions.

SPECIAL RULE FOR THE PRESIDENCY OF BOMBAY.

Suits cognizable before Collectors under the operation of Chapter VIII. Regulation XVII. of 1827, of the *Bombay Code* (for the territories subordinate to Bombay, prescribing Rules for the assessment and realization of the Land Revenue defining the relative right in the land and its produce of the Government and the subject of the superior holder and the tenant; vesting the Collector with judicial powers in cases regarding land, and its rent and produce, and declaring the circumstances under which exemption from the payment of Land Revenue is to be enjoyed), as modified by Act XVI. of 1838, shall be subject to the same rules in regard to Stamps, as are in force as above for the Courts of Civil Judicature.

GENERAL RULE. If the subject matter of any plaint, written statement, petition, or copy of a decree or order cannot be conveniently comprised within one Stamp Paper of the value prescribed, by this *Schedule*, one or more additional pieces of paper may be used bearing a Stamp of the value required for Petitions. This Rule does not apply to copies of judgments; any additional piece of paper required for such copies do not require to be stamped.

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 5th March 1862, and was referred to a Select Committee who will make a report thereon after the 8th of June next:—

A Bill to amend Chapter XII. of the Indian Penal Code and to provide for certain offences against the Coin.

Whereas it is expedient to amend Chapter XII. of the Indian Penal Code and to provide for certain offences against the Coin; it is enacted as follows:—

I. The following Sections shall be added to the Indian Penal Code, and shall be read and taken as part of Chapter XII. thereof and shall be numbered as Sections 254a and 254b of the said Code:—

254a. Whoever shall without lawful authority or excuse, (the proof whereof shall lie on the person accused), have in his possession or custody any filings or clippings or any Gold or Silver in bullion, dust, solution, or otherwise, which shall have been produced by impairing, diminishing, or lightening any Gold or Silver Coin in use or commonly received as money in British India, whether a legal tender or not, having known at the time when he became possessed thereof, that the same was produced or obtained by impairing, diminishing, or lightening any Coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the Coin impaired, diminished, or lightened be the Queen's Coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

254b. Whoever, without lawful authority or excuse (the proof whereof shall lie on the person accused), shall have in his possession or custody any greater number than five pieces of counterfeit Coin or of Coin diminished in weight otherwise than by lawful wearing, shall be punishable with fine which may extend to forty Rupees and shall not be less than ten Rupees for every such piece of Coin which shall be found in the possession or custody of such person, besides forfeiting such Coin.

II. In any proceedings or judgments under the said Indian Penal Code, or under the Code of Criminal Procedure, it shall be sufficient to describe the said Sections as Sections 254a and 254b of the Indian Penal Code.

III. Any person, whether an European British subject or not, who shall be guilty of the offence described in the said

Section 254b of the Indian Penal Code, as hereinbefore set forth, shall be punishable for such offence by any Magistrate of Police in any of the Presidency Towns of Calcutta, Madras, or Bombay, or by any Magistrate, Joint Magistrate, or Subordinate Magistrate or Officer lawfully exercising any of the powers of a Magistrate, within whose jurisdiction the Coin or the person charged may be found.

(2.) Provided that in such case it shall not be competent to a Subordinate Magistrate of the 2nd class to impose a fine exceeding 100 Rupees or to a Subordinate Magistrate of the 1st class to impose a fine exceeding 500 Rupees. But it shall be competent to the Magistrate, or Joint Magistrate of a District, or to any Officer authorised to exercise the powers of a Magistrate to impose a fine to the full extent authorised by the said Section 254b.

(3.) Any person hereby punishable by a Magistrate of Police, shall be punishable by summary conviction according to the provisions of Act XIII. of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca), and Act XLVIII. of 1860 (to amend Act XIII. of 1856).

IV. The offences specified in the said Sections hereinbefore numbered 254a and 254b, when committed or tried in any place in which the Code of Criminal Procedure is in operation, shall be subject to all the provisions in the said Code of Criminal Procedure contained, except as in Section III. of this Act specified.

V. The Schedule annexed to this Act shall be added to, and shall be read as part of the Schedule to the Code of Criminal Procedure.

VI. And whereas the provisions of the Indian Penal Code do not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca, and it is necessary to make provision for the punishment of the offences specified in the Sections mentioned (Sections 254a and 254b) respectively, when committed within the said Settlement; it is enacted as follows:—

Whoever shall, within the Settlement of Prince of Wales' Island, Singapore, and Malacca, commit any offence specified in the Section hereinbefore numbered

254a, shall on conviction be liable to imprisonment with hard labour for a term not exceeding three years and to fine; and if the Coin impaired, diminished, or lightened, be a Queen's Coin (that is to say, a Coin stamped or issued by authority of the Queen, or of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's Dominions), shall be liable to imprisonment with hard labour for a term not exceeding five years and to fine.

VII. Whoever shall, within the Settlement of

Penalty for committing any offence under Section 254b, within the Straits Settlement.

Prince of Wales' Island, Singapore, and Malacca, commit any offence specified in the Section hereinbefore numbered 254b, shall on conviction thereof before a Magistrate of Police or a Justice of the Peace of the said Settlement, besides forfeiting the said Coin, be liable to a penalty not exceeding forty Rupees and not less than ten Rupees for every piece of Coin of the description mentioned in that Section which shall be found in the possession or custody of such person.

VIII. In case any penalty imposed in the last

Consequence of non-payment of penalty under the last preceding Section.

preceding Section shall not be forthwith paid, it shall be lawful for such Magistrate or Justice of the Peace to commit the offender to gaol, there to be kept to hard labour for the space of three months or until such penalty shall be sooner paid.

1. Section.	2. Offence.	3. Whether the Police may arrest without Warrant or not.	4. Whether a Warrant or Summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
254a	Possession of Gold and Silver clippings or filings, or Gold or Silver in bullion, solution, or otherwise produced by impairing the Coin, with the knowledge that it was so produced.	May arrest without Warrant.	Warrant.	Not bailable.	Imprisonment of either description for three years, or fine, or both.	Court of Session.
254b	Possession without lawful authority or excuse of any greater number than five pieces of counterfeit Coin, or of Coin diminished in weight otherwise than by lawful wearing.	Shall not arrest without Warrant.	Summons.	Bailable.	Fine.	Any Magistrate.

STATEMENT OF OBJECTS AND REASONS.

This Bill provides for two classes of offences against the Coin for which no provision is made by the Penal Code, but which are punishable in England under the English Consolidating Act, and for which the experience of those conversant with the subject in this country, as well as my own so far as it goes, leads me to think that a punishment should be provided here.

The first is the offence of unlawfully having in possession gold or silver filings or clippings, or gold or silver in solution, bullion, or otherwise, produced by diminishing or lightening genuine Coin, with the knowledge that such gold or silver was so produced.

The Penal Code contains provisions dealing with the analogous case of unlawful possession of coining instruments used as dies, &c., and it was possibly thought that the possession of the proceeds of Coin illegally impaired, would be evidence of the offence of having impaired the Coin, or of having abetted such offence, and consequently that it was not necessary to treat it as a substantive offence. Cases, however, may arise in which no moral doubt can exist of the guilt of the person found in possession of such filings or proceeds of Coin, and yet where it might be impossible to convict of any of the offences specified in the Code; and the same reasons which have long existed in England for making the possession with guilty knowledge a substantive offence exist also, perhaps still more strongly, in India. Where there is reason to suppose that the actual lightening of the Coin has been effected by one man who has brought the proceeds in shape of filings or solution to another for sale or deposit, the possession, with guilty knowledge by the defendant, is analogous in regard to the original offence against the Coin to that of the receiver of stolen goods in regard to the original theft. Both are equally principals in crime, and the receiver is treated as a substantive offender, being generally thought a far more dangerous culprit than the man who committed the original offence.

This offence is punishable by the present Bill with imprisonment for three years, or when the Coin defaced is a Queen's Coin, the offender is, in accordance with the principle of the Penal Code, visited with a heavier punishment extending to five years.

The second class of cases provided for by the present Bill is that of mere possession, without lawful authority or excuse, of more than a certain number of pieces of counterfeit Coin, or Coin unlawfully altered or diminished, which is rendered punishable on summary conviction before a Magistrate by fine not exceeding forty Rupees nor less than ten Rupees for each Coin, besides forfeiture of the Coin. A similar provision is still in force in the Presidency Towns, and upon charges against European British subjects throughout India, in regard to counterfeit Coin, under the 75th Section of the 9 Geo. 4. c. 74, and has been found extremely useful in practice. The punishment being that of fine only, the burden of proving the lawful excuse or authority is thrown upon the defendant; and I have known cases of large seizures of Coin in which it would have been impossible under the ordinary criminal law to bring home an offence to the person in actual possession, but in which on his failure to prove a justification, forfei-

ture of the Coin and a heavy fine were enforced against him.

A similar provision exists in England in respect to the coinage of any Foreign State; and there is, I apprehend, fully as much reason for retaining the provision in India as applicable to counterfeit Coin generally, as there was in originally introducing it in 1822.

I propose extending this provision to India generally. I also propose extending it not only to counterfeit Coin generally, but to all Coin on which any unlawful operation of impairing or diminishing has been performed. No solid ground of distinction seems to exist between the two classes of cases when once it appears that the impairing of the Coin in the latter case is the result not of fair wear and use, but of a criminal operation performed on it.

(Signed) W. RITCHIE,

The 29th January 1862.

M. WYLIE,

Deputy Secretary to the Government 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 5th March 1862, and was referred to a Select Committee with instructions to make a report thereon in a fortnight:—

A Bill to protect the personal dignity of His Majesty the King of Oude.

Whereas it is expedient, with a view to protect the personal dignity of the King of Oude, in accordance with the promise made to His Majesty on the part of the British Government, that His said Majesty should be partially exempted from the jurisdiction of the Civil, Criminal, and Revenue Courts; it is enacted as follows:—

I. His Majesty the King of Oude is hereby declared to be, and is, exempt from the jurisdiction of the Criminal Courts, except in regard to offences punishable with death under the Indian Penal Code. Except for such offences, no Criminal Court or Magistrate shall inquire into any complaint, or issue any summons or warrant against His said Majesty.

II. No Police Officer or other person shall arrest His said Majesty without warrant, and no Police Officer or other person charged with the execution of a warrant either to arrest any person or to search for any thing, shall enter into or remain in any house in which His Majesty may at the time be residing, except in the presence and with the sanction of the Officer appointed to be Agent with His Majesty on the part of the British Government.

III. If any complaint be made or information preferred against His said Majesty for any offence other than the offences excepted in Section I. of this Act, the Officer appointed to be Agent with His said Majesty may inquire into the case and make a report thereon to the Governor General in Council, and the Governor General in Council, on receipt of any such report, may issue a Commission for the trial of such offence, and

may vest the said Commission with any of the powers vested in any Court by the Code of Criminal Procedure. Provided that, in case of conviction, the said Commission shall not pass sentence, but shall report its judgment to the Governor General in Council, who may thereupon give such directions, in respect to His said Majesty, as the exigency of the case may seem to require.

IV. No writ or process shall at any time be sued forth or prosecuted against the person, goods, or property of His said Majesty, unless such writ or process shall be so sued forth or prosecuted with the consent of the Governor General in Council, first had and obtained, such consent to be testified by the signature of a Secretary to the Government of India, and any writ or process which shall at any time be sued forth or prosecuted against the person, or goods, or property of His said Majesty, without such consent as aforesaid, shall be utterly null and void.

V. His said Majesty shall not be required to appear personally as a witness in any Court, or before any Commissioner appointed by any Court, to be examined or make affidavit when his evidence or affidavit is required in any Civil or Criminal suit or proceeding.

VI. When the evidence of His Majesty is required in any such Civil or Criminal suit or proceeding, the Court or the party requiring the same shall cause to be prepared interrogatories in writing for the examination of His said Majesty. If the case is one in which any other party in such suit or proceeding would, by law, have a right to cross-examine, such party shall be at liberty to prepare cross-interrogatories. The interrogatories and cross-interrogatories (if any) shall be transmitted to the Officer appointed to be Agent with His said Majesty, who shall exhibit the same to His said Majesty, and take down in writing His Majesty's answers thereto given on solemn affirmation. The interrogatories, with the answers thereto, shall be returned to the Court before whom the suit or proceeding is pending, together with a certificate from the said Officer appointed to be Agent of the answers of His said Majesty having been duly taken.

VII. When any affidavit is required to be sworn by His said Majesty in any Civil or Criminal suit or proceeding, such affidavit shall be taken and sworn before the said Officer appointed to be Agent, who shall return such affidavit with a certificate of its having been duly sworn to the Court or Officer before whom the same is to be used.

VIII. Except with the consent of His said Majesty, no person other than the said Officer appointed to be Agent shall be entitled to be present when His said Majesty is being examined on interrogatories or sworn to any affidavit under the provisions of this Act.

IX. The answers to interrogatories or affidavit of His said Majesty taken and sworn under the provisions of this Act shall be admissible in evidence and subject to the same objections as if such answers or affidavit had been taken or sworn in open Court or under a Commission.

STATEMENT OF OBJECTS AND REASONS.

After the King of Oude had refused to accept the Treaty proposed to him in 1856, and had placed himself in entire dependence upon the pleasure of the British Government, a pension of twelve lakhs of

Rupees a year was offered to His Majesty. This offer was coupled with certain other conditions, among which were these, that His Majesty should not be deprived of any of the titles or dignities which he had enjoyed; that he should be permitted to enjoy them during his life; and that all deference and respect and every royal honour should be paid to the King as long as he might live.

It was also proposed to His Majesty that the peculiar jurisdiction within certain limits, which had been reserved to His Majesty in the Treaty, should be reserved to His Majesty undiminished during his lifetime.

But the King having come to Calcutta, and taken up his residence at Garden Reach, and having sent a deputation to England to endeavour to obtain restitution of the Kingdom which he had forfeited, did not then accept the offer made to him, or come to any arrangement with the Government.

When the Mutiny broke out, it was found necessary, as a measure of precaution, to place the King under arrest, and to keep him in confinement as a State Prisoner in Fort William. He was released as soon as his personal liberty was thought consistent with the public safety, and he then addressed the Government, begging that his dignity and authority might be restored to him, and that he might be relieved from his pecuniary difficulties.

The following extracts from the letter of the Secretary to Government, dated the 6th September 1859, contain all that is important in the orders of Government passed upon the King's application:—

"3. You will also inform His Majesty, with respect to his wish for the restoration of his dignity and authority, that the Governor General in Council earnestly advises His Majesty to cast from his mind all expectation whatever, that the authority of the British Government over the Province of Oude will ever be relaxed. The decision of the Government of England has been declared upon this point, and it is final.

"4. But as concerns the personal dignity of the King, you will assure His Majesty that it will not cease to be respected and protected by the Governor General in Council, and that no suitable mark of the honour due to his rank will be wanting.

"5. On one point, however, the Governor General in Council must depart from the former purpose of the Government as expressed to His Majesty in 1856. It was then contemplated that His Majesty should continue to exercise jurisdiction and to administer justice within the limits of his residence in which he might take up his abode. This privilege can now no longer be conceded to any person, however high his position, who is resident within British Territory. It is necessary that in every part of the British dominions the law should be paramount, and although the King may be certain that the administration of this law shall never be allowed to trench upon the respect which the Governor General in Council desires to show to His Majesty personally, and to His Majesty's family, His Excellency can no longer sanction the exercise by His Majesty of an independent jurisdiction within the precincts of His Majesty's residence, or the immunity of any of his Officers and attendants from the ordinary operation of the law. Provision, however, will be made for serving legal process within the precincts of His Majesty's residence, through the Officer who may be appointed Agent with His Majesty on the part of the British Government.

"9. The King is aware that an income of twelve lakhs of Rupees a year was tendered to him by the British Government in 1856, and that it is in no way owing to that Government that His Majesty did not at once come into the receipt of that sum. Recent events have made no difference in the desire of the British Government that His Majesty's expenses should be amply and liberally met. Therefore the provision of twelve lakhs

a year is still open for the King's acceptance, and payment of it will commence from the day on which that acceptance shall be signified."

The King accepted these proposals. It will be observed that all that was offered to the King in 1856, was offered again to His Majesty in 1859, with the one single exception of an independent jurisdiction. His Majesty is therefore entitled, under the promise of the British Government, to the continuance during life of his titles and dignities, of all deference and respect, and of every royal honour; and His Majesty has been expressly assured that though in every part of the British dominions the law must be paramount, though he therefore cannot be allowed to exercise an independent jurisdiction, and though his Officers and attendants can have no immunity from the ordinary operation of the law, the administration of this law shall never be allowed to trench upon the respect which the Governor General in Council desires to show to His Majesty personally, and to His Majesty's family.

The only step yet taken to fulfil this assurance has been to provide by Act XIV. of 1860 for the service of Civil and Criminal process within the limits of the King's residence, through the instrumentality of the Officer appointed to be Agent with His Majesty on the part of the British Government. But this Act gives no special immunity to the King, and makes his legal position precisely the same as that of the members of his family, and of his dependants. A case has recently arisen in which His Majesty having become defendant in a suit brought against him in the Civil Court, was required by the Court to answer certain interrogatories in the presence of the plaintiff and his Attorney. Such a requisition is undoubtedly legal, but it subjects the King to an indignity from which he ought to be protected. It is also reported that the King may be required to attend in person before the Judges of the Supreme Court to give evidence in a case pending in the Court of Common Pleas, a position altogether incompatible with royalty and with the respect due to His Majesty.

These circumstances have led the Governor General in Council to consider what legislative measure is necessary, in order fully to carry out the intention with which the orders of the 6th September 1859 were conveyed to His Majesty, and to place His Majesty in a position to which his birth, his actual tenure of Sovereignty during a long period, and his misfortunes, give him a strong claim, and which has been guaranteed to him by the express terms of a promise.

This Bill is the result. It exempts the King from the jurisdiction of the ordinary Criminal Courts and from the action of the Police, in all cases except those of treason or murder; but it provides for the creation of a special tribunal to try offences of a less heinous description if His Majesty should be charged with any such offence, and in the event of conviction, empowers the Government to deal with His Majesty as it may think proper.

It protects the person and property of the King from any process of the Civil Court issued without the consent of the Government, and places him in this respect on the same footing as that which has been conferred by law on the Nawab of the Carnatic. It exempts His Majesty also from attendance in the Courts as a witness, and prescribes the mode in which his evidence is to be taken.

It leaves untouched the members of the King's family, who, it is thought, are sufficiently protected by the existing law, and gives no exemption to his dependants beyond that which they now enjoy while residing in the premises belonging to his Majesty.

(Signed) CECIL BEADON.

The 12th February 1862.

M. WYLIE,
Deputy 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 5th March 1862, and was referred to a Select Committee who will make a report thereon after the 8th of June next :—

A Bill for the better protection of the Public against bad Coin.

Whereas it is expedient to provide for the prevention of the circulation of bad Coin, and for the protection of the public in respect of such Coin ; it is enacted as follows :—

Preamble.

I. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

The word "Coin" denotes a metal used as money, stamped and issued by the authority of some Government in order to be so used.

The words "Queen's Coin" denote Coin stamped and issued by the authority of the Queen, or of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's Dominions.

The words "Counterfeit Coin" include any false Coin and any genuine Coin which shall have been gilt, silvered, washed, colored, or cast over or altered, so as to resemble or be apparently intended to resemble or pass for any Coin of a higher denomination, and any metal or piece of mixed metals, which shall have been caused to resemble Coin with the intent to imitate the same, whether the imitation shall be exact or not.

The words "British India" 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."

The word "Government" denotes the person or persons authorized by law to administer the executive Government in any part of British India.

The word "Magistrate" includes all persons exercising all or any of the powers of a Magistrate, by whatever designation they may be called. In the Presidency Towns or in the Stations of Prince of Wales' Island, Singapore, and Malacca, it shall include a Magistrate of Police and the Commissioner of Police. In any case in which a European British subject is found in, or is charged with, the possession of Coin or of any other article, the possession of which is referred to in this Act, it shall include a Justice of the Peace.

The word "person" includes any Company, Association, or body of person whether incorporated or not.

Where the having any matter in the possession of any person is mentioned in this Act, it shall include the having of it in his personal custody or charge ; and also the knowingly or wilfully having it in the custody or possession of such person's wife, clerk, or servant, or of any person authorised by such person temporarily or on a particular occasion, on account of such person in any dwelling-house or building, lodging, field, or other place open or enclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or benefit, or for that of any other person.

Gender.

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

II. Every instrument or material used or intended to be used for the purpose of counterfeiting Coin or for performing any operation on any Coin which diminishes the weight or alters the composition of that Coin, and all filings or clippings of gold or silver, or gold or silver in bullion, dust, solution, or otherwise, which shall have been produced or obtained by diminishing or lightening any Coin, shall be forfeited.

III. Every counterfeit Coin and every Coin on which any operation shall have been performed, which alters its composition or diminishes its weight, shall be forfeited, whenever the person in possession of the same shall have committed any offence in respect of such Coin, or shall have the same in his possession without lawful authority or excuse, or shall not have paid or given for the same the full value which the Coin, if it purport to be a Queen's Coin current in British India, imports or was apparently intended to import, or the full market value of the Coin at the place where he received the same, if the Coin do not purport to be a Queen's Coin current in British India ; or shall when he received the same, have had notice or reason to suspect that the same was not genuine, or was not of full weight, or had been in any way impaired or illegally dealt with.

IV. When the person in possession of any Coin which shall have been diminished in weight shall not have committed any offence in respect thereof, and shall have the same in his possession without lawful authority or excuse, and shall have paid or given for the same the full value which the Coin, if a Queen's Coin current in British India, and if genuine and of full weight, imports or was apparently intended to import, or the full market value of the Coin at the place where he received the same, if the Coin be not a Queen's Coin current in British India, and shall have received the same without any notice or reason to suspect that the same was not genuine or was not of full weight, or had been in any way impaired or illegally dealt with, such Coin, when the same shall no longer be required in evidence, shall, after being so cut, broken, bent, or defaced, as provided by Sections VI. X. and XI. respectively of this Act, be returned to such person.

V. Provided that in every case mentioned in Sections III. and IV. of this Act, the burden of proving that the Coin was in his possession with lawful authority or excuse, and of proving that he had paid or given full value for the same, as hereinbefore described, and that he had received the same without any such notice as aforesaid, shall lie on the person in possession of the said Coin. On failure of such proof to the satisfaction of any Magistrate before whom the said Coin may be brought, or on failure of any person to appear and claim any Coin as aforesaid when seized and brought before a Magistrate, such Magistrate shall declare the said Coin to be forfeited.

On failure of proof, &c. Magistrate to declare Coin forfeited.

VI. When any Coin shall be delivered or offered to any person who shall suspect the same to be counterfeit, or to have been altered in composition, or to have been diminished in weight otherwise than by lawful wearing, or when any Queen's Coin which would, if of due weight, be a legal tender in British India, shall be delivered or offered to any person who shall suspect the same to have been so diminished in weight, whether by lawful wearing or not, as not to be a legal tender, it shall be lawful for such person to cut, break, bend, or deface such Coin.

Burden of proof in cases under Sections III. and IV. to be on person in possession.

Person to whom Coin is delivered or offered, if he suspects the same to be counterfeit, &c. may break up the Coin.

VII. If in such case it shall appear that the said

If in such case the Coin proves to be counterfeit, &c. the person delivering or offering it shall bear the loss.

of a Queen's Coin, which would, if of due weight be a legal tender in British India, has been so diminished in weight, whether by lawful wearing or not, as not to be a legal tender, the person delivering or offering the same shall bear the loss thereof.

VIII. If the said Coin shall be genuine Coin of the

If otherwise, the person breaking up the Coin shall receive it.

denomination of which it purports to be, and shall not have been altered in composition, and shall not have been diminished otherwise than by lawful wearing, and shall (in the case of a Queen's Coin which would, if of due weight, be a legal tender in British India), be of due weight as a legal tender, the person cutting, breaking, bending, or defacing such Coin shall receive the same as a Coin of the denomination of which it purports to be.

IX. If in such case any dispute shall arise whether

Disputes in such cases to be summarily determined by a Magistrate.

such Coin be Counterfeit or whether it has been so altered or so diminished as aforesaid, it shall be heard and finally determined in a summary manner by a Magistrate, who is hereby empowered to examine upon oath or solemn affirmation as well the parties as any other person, in order to the decision of such dispute.

X. In case of such dispute as aforesaid, it shall not

Coin in dispute not necessary to be broken up before dispute is determined, but Magistrate may break up the Coin after he determines it to be counterfeit, or may impound and detain it.

be necessary that the Coin in dispute shall be cut, broken, bent, or defaced before the said dispute shall be heard and determined by the Magistrate, but the said Coin shall, in all cases, be produced before the Magistrate, and if he shall determine that the same is counterfeit, or has been altered or diminished as aforesaid, he shall either cause the same to be cut, broken, bent, or defaced in his presence; or, if he shall think that the same may be required to be adduced in evidence in any criminal proceedings relating thereto, may impound and detain the same for that purpose.

XI. Every Officer of the Government to whom any

Officers of Government, suspecting Coin delivered or offered in payment of Government dues to be counterfeit, shall break up the same subject to Sections VII. to X.

Coin is delivered or offered in payment of any of the revenues of, or any sum due to, the Government, or otherwise, on account of Government, which Coin he shall suspect to be counterfeit, or to have been so altered or diminished as in the 6th Section of this Act mentioned, is hereby required to cut, break, or deface such Coin: subject to the provisions in the 7th, 8th, 9th, and 10th Sections contained.

XII. If any person shall find in any place whatever,

Person finding counterfeit Coin, &c. to seize and carry the same forthwith before a Magistrate.

or in the custody or possession of any person having the same, without lawful authority or excuse, (1st) any counterfeit Coin or metal; or (2nd) any Coin on which any operation shall have been performed, whereby it has been altered in composition, or diminished in weight, or so altered in appearance as to resemble Coin of a different description or of higher value; or (3rd) any instrument or material whatever adapted or intended for the counterfeiting of Coin; or (4th) any filings or clippings, or any gold or silver in bullion, in dust, or solution, which shall have been produced or obtained by diminishing or lightening any gold or silver Coin, it shall be lawful for the person so finding or discovering to seize the Coin, instrument, material, filings, or clippings, or gold or silver, and carry the same forthwith before some Magistrate.

XIII. Whenever any such instrument or material

Disposal of Coin declared to be forfeited.

as aforesaid, or any such clippings or filings, or gold or silver in bullion, dust, solution,

or otherwise as aforesaid, or any such counterfeit Coin or Coins as are hereinbefore declared to be forfeited, shall have been brought before any Magistrate, whether under the provisions of this Act, or under a search-warrant or other process issued under the Code of Criminal Procedure, or Act XIII. of 1856 (*for regulating the police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), or any other Act, or other wise, the same, after they shall have been produced in evidence, or when they shall have been produced before a Magistrate, and shall not be required to be given in evidence before any other Court, shall forthwith be delivered up as forfeited to the Government or to any person authorised by the Government to receive the same.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide for the mode of dealing with counterfeit Coin, and with Coin originally genuine, which has been tampered with or reduced in weight.

The Statutes and Acts in force in India previously to the passing of the Penal Code, had provided for the punishment of certain offences against the Coin. These provisions were in many respects imperfect, and have been now superseded by the Indian Penal Code, the enactments of which provide in a most salutary manner for nearly every offence connected with the Coin for which it is desirable to provide a special punishment. But no enactment has hitherto been passed in India defining the rights or duties of the public, or of the Officers of the Government, in respect of false Coin and damaged Coin; and much uncertainty has hitherto existed on the subject, especially as to the right of private individuals to break up, in order to withdraw from circulation, Coin which has been offered to them, and which they see to be counterfeit or diminished in weight, and as to the extent to which such Coin, if broken up, and the materials are forfeited to the Government, or can be reclaimed by the persons who offered them. The present Bill seeks to define and to place on a just and convenient footing the rights and duties, both of the Government and its Officers and of the public generally, in respect to such Coin.

The first question to determine in such a case is, to whom the materials of the false or deteriorated Coin belong, and how far such Coins are to be considered as forfeited to the State.

In the recent consolidation of the Statute Law relating to offences against the

24 and 25 Vic. c. 99.

Coin in England, as well as in the Acts thereby consolidated, it seems to be assumed, though it is not positively enacted, that all false and counterfeit Coin shall be absolutely forfeited to the Government. For it is provided that, whenever any such Coin shall be brought before a Justice of the Peace, whether any offender be charged before him or not, they shall, when they have been produced in evidence or upon seizure, if they shall not be required to be produced in evidence, be delivered up to the Officers of Her Majesty's Mint, or to the Solicitors of the Treasury.

Section 27.

No such provision is made in regard to Coin originally genuine, which has been impaired or diminished by guilty means, although, where any offence has been established in respect to such Coin, there can be little doubt that it would, in England, be treated as forfeited.

There is, however, a marked distinction in practice between offences in relation to the Coin in England and in India. In England, whether from the superior skill of the false coiners, or the greater carelessness of those upon whom false Coins are passed, it is rare

that a counterfeit Coin is of much intrinsic value. The metal or preparation which is made to do duty for the standard metal is there altogether base; whereas, in India, instances have occurred of coinage to a large extent of Coins of a metal comparatively but little inferior in value to that of the pure standard, so as to leave the coiner's profit but a small percentage of the actual value of the Coin passed off. The hardship therefore resulting to an innocent party who receives a false Coin, or it may be a number of false Coins, for full value, from an absolute forfeiture of the Coin to the Crown, would be greater in this country than in England. The metal used is more calculated to deceive even the vigilant, and the intrinsic value of the Coin received by him after it has been broken up is much greater.

It is proposed in the present Bill to declare all Coin which is either counterfeit or has been criminally tampered with, forfeited in the hands of any person who has committed any offence in respect of it, or who has the same in possession without lawful authority or excuse, or who has not given full value for it, or who has taken it with notice of some flaw in it.

But where the holder of the Coin has committed no offence, and has lawful authority or excuse for its possession, and has given full value for it without notice of any flaw, he will be entitled to receive it back after it has been broken up, so as no longer to be capable of being circulated as Coin. The burden of proving both lawful authority or excuse, and payment of full value without notice, is thrown upon the person in possession of the Coin, failing which proof, the Coin will be absolutely forfeited to the Government.

It seems obviously necessary to require proof both of lawful authority or excuse, and of the giving of value without notice, as a condition to the restoration of the Coin. If proof of lawful authority or excuse alone were required, a policeman or informer, who had taken possession of a false Coin, in order to bring it before a Magistrate, or the finder of such a Coin in a hidden place of deposit, might keep it. If proof of value only were required, a person who had taken the Coin in payment of goods delivered by him with a knowledge that there was something wrong about the Coin, might keep it. In all such cases the Coin ought obviously to be forfeited, whatever its value may be, and it is only in cases of complete good faith and fair vigilance that the Coin should be restored.

All dies and instruments used for the purpose of counterfeiting the Coin or for unlawful coining operations generally, and all silver filings and clippings, and other kinds of Coin illegally operated on, are declared absolutely forfeited.

The Bill provides that, where a Coin is tendered to any person who suspects it to be counterfeit or to have been altered in composition or diminished otherwise than by lawful wear (which three operations are treated as crimes by the Penal Code), he shall be at liberty to break it up or deface it, so as to prevent its further circulation. If the suspicion prove well founded, the person offering the Coin must bear the loss. If the suspicion prove unfounded, the person breaking or defacing the Coin must receive it as a Coin of full value. Where the person offering the Coin asserts its genuineness, the dispute may be settled at once summarily by any Magistrate, who will, if the Coin prove bad, see that it is broken up. These provisions agree in substance with those which have been for many years in force in England, and which have been lately re-enacted in the Consolidation Act of last Session. I propose, however, to extend this provision to one case which is not provided for by the English Statute, that of the Queen's Coin current and a legal tender in British India, which has been so diminished, whether by lawful wear and tear, or by unlawful means, as not to be a legal tender. The reason for causing such Coin to be defaced so as to withdraw it from circulation, appears to be as strong as that applicable to Coin diminished by the process commonly called sweating,

for the chemical means of diminishing the weight of the Coin, without leaving any apparent trace on the Coin itself of any operation having been performed, are now so potent and so subtle, that if the person to whom Coin is tendered which he sees to be short of weight be justified in breaking it up, or in taking the person offering it before a Magistrate only in case of its turning out that some unlawful operation has been performed upon it, there will be every inducement to avoid the trouble and risk attended on such a course.

These provisions are, under the present Bill, optional with regard to the public generally, as they appear to be in England. To impose a positive obligation on all to whom a suspicious Coin may be tendered in the course of business, and in good faith, will be burdensome on the individual, however useful it might be for the protection of the circulation. But they are rendered compulsory on all Revenue Officers, and all Officers receiving payment on account of the Government. It clearly ought to be the duty of such Officers to do their utmost to prevent the circulation of false or dishonest Coin, not merely by refusing it, but by seeing that steps are taken to punish the offender, where there is proof of an offence, and by causing the withdrawal of the Coin from circulation. In fact, the practice now proposed to be enacted has been followed at the General Treasury for some years, as will be seen by the correspondence which took place in 1859; but the absence of any simple mode of determining dispute by going before a Magistrate, exposes such a course of proceeding in doubtful cases to some difficulty.

The powers conferred by the English Consolidation Act, on individuals or Police Officers to search for or bring before a Magistrate without warrant, false Coin or Coin altered in composition or unlawfully diminished in weight, or gold or silver filings, bullion, or solution, the proceeds of Coin tampered with, are conferred by this Bill.

(Signed) W. RICHIE.

The 22nd January 1862.

From the Sub-Treasurer, Fort William, to the Secretary to the Government of India, Financial Department, No. 308, dated the 21st January 1859.

SIR,—I have the honour to state that much inconvenience and risk is experienced at this Office from the constant tender of plugged and counterfeit Rupees in payment of money by the public into the General Treasury, and that as the practice of allowing such Rupees, after they have been tendered, to be returned to the holders, leads to the same base Coins being brought to the Treasury over and over again, I have the honour to solicit that you will be so good as to obtain the orders of Government, should Government consider with me that such orders are necessary, empowering the Sub-Treasurer, to mutilate and divide into two all plugged and counterfeit Rupees that may be tendered in the General Treasury, in the same manner as the Collectors of Land Revenue are empowered, under the Circular of the Accountant, Revenue Department, No. 431, dated 14th July 1832, issued in compliance with the orders of the Sudder Board of Revenue, to mutilate all base Coins found in remittances from one Government Treasury to another.

2. In connection with the above subject, I have the honour to state for the consideration of Government, that a large number of light weight Rupees are in circulation in Calcutta, and which are frequently tendered by the public for payment into the General Treasury. These Coins have been either clipped or filed and silver taken from them, or from the recent system of electro-plating, a considerable quantity of silver is extracted from Rupees by means of chemical process without this being so apparent as to admit of ready detection. Under the above circumstances, I would submit that it is desirable that the matter should receive the consideration of Government with a view to very stringent rules being enacted for the preservation of the integrity of the Coin, and the safety of the public.

NO. 906, FINANCIAL DEPARTMENT, FORT WILLIAM, THE 12TH FEBRUARY 1859.

Forwarded to the Government Solicitor, with a request that he will obtain the opinion of the Advocate General as to what powers the law confers upon the Government in dealing with the Coins referred to by the Sub-Treasurer, and with the parties who tender them at the General Treasury.

Extract from the Opinion of the Advocate General, dated 19th February 1859.

I think the law now in force in India with reference to false Coins is defective, and that application should be made to the Legislature to pass an Act corresponding in substance with the Statute 2 and 3 Wm. 4, c. 34, which has never been introduced into this country, and which provides for several cases wholly omitted by the 9 Geo. 4, c. 74, Sections 73, 74, and 75, and Act XXXI. of 1839, the Acts now in force here with respect to offences against the Mint.

2. The Act 2 and 3 Wm. 4, c. 34, (Section 13) provides expressly for the course to be adopted with reference to Coin counterfeit, or diminished otherwise than by reasonable wearing, in the possession of innocent persons, and authorises the Teller of Her Majesty's Exchequer and Receiver of Revenue, as well as other persons, to break and deface such Coins. Such provision, as well as that contained in Section 14, authorising the seizure of counterfeit Coin in the mode therein pointed out, would be extremely useful in this country.

6. The powers of the Revenue or other Officers of Government to break up or destroy genuine Coins, which have been unlawfully tampered with, but which are presented by innocent holders, are very ill defined at common law, and special provisions for breaking up counterfeit Coin or Coin unlawfully diminished have been so often introduced by Statute,* that an inference arises that some statutory authority is necessary in order to afford a complete protection to the Officers so dealing with Coins.

7. My own opinion certainly is that any Officer of Government to whom counterfeit Coin is tendered, even by an innocent holder, is fully justified, without any legislative authority, in cutting or breaking in two such

Coin, returning the pieces to the holder, if no suspicion attach to him, or to any one who can be traced through him.

8. But the question is more difficult as to genuine Coin which has been unlawfully tampered with: I am inclined to think, however, that if such Coin has been actually "fraudulently clipped, filed, drilled, defaced, or debased," within the meaning of Act. XXXI. of 1839 (which would include the cases of plugging referred to by Mr. Harvey), the Government Officers would be safe in cutting or breaking in two such Coins, returning the pieces (without loss of any of the particles) to the innocent holder. I cannot see that the latter could sustain any damage that the law would recognise by the act, as he could not himself make use of the Coin as a genuine Coin after being apprised of its having been unlawfully dealt with, without a crime, and the value of the Coin for any lawful purpose would not be diminished by its being broken in two.

9. Whether the course be strictly justifiable in the present state of the law or not which is very doubtful, I strongly advise its immediate adoption at the Treasury and by all Revenue Officers, as a protection to the public against the circulation of Coin illegally depreciated, which there is a strong moral obligation on the Government to afford.

10. When the Coin has been diminished or impaired otherwise than by any of the five modes specified in Act XXXI. of 1839, for example by sweating through a chemical process, which does not deface or debase the standard, much greater difficulty will exist. Where it is quite certain that the diminution is owing to some chemical or unlawful process wilfully applied, I am inclined to think the Government Officers breaking it in two will be practically safe. For any subsequent uttering such Coin with knowledge of its character would, in any view, be a misdemeanor at common law, though not a statutable offence, and therefore it is difficult to see what legal damage the innocent holder in receiving back the pieces could sustain. But extreme caution will be necessary in dealing with such cases, because if the lightening or diminution of the Coin can be attributed to fair wear and tear, or to lawful means (the burden of negating which would be on the Officer breaking it), I think it clear that he would be exposed to an action by the innocent holder.

(Signed) W. RITCHIE.

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