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NOTIFICATION.

Bombay Castle, 4th August 1831.

GENERAL DEPARTMENT.

The Right Hon'ble the Governor in Council having sanctioned the publication of a weekly paper, to be styled the "BOMBAY GOVERNMENT GAZETTE," notice is hereby given, that after this day all advertisements and other public papers of the Government will be printed in the BOMBAY GOVERNMENT GAZETTE only: and all orders or other public notices appearing in that paper, under the signature of the Secretaries, or other public officers of the Government, are hereby ordered and directed to be conformed to and obeyed accordingly.

Bombay Castle, 18th January 1832.

When official notifications from the Government are inserted in the BOMBAY GOVERNMENT GAZETTE, no communication on the same subject will be made in writing to any department concerned; but all public officers are required to take notice of such official notifications in the same manner as if they had been directly communicated to them by letter from the Secretary's office, and as heads of offices alone will be furnished by Government with the BOMBAY GOVERNMENT GAZETTE, they will be expected to communicate to their subordinate officers all orders which may in any manner concern them.

The Bombay Government Gazettes furnished by Government to public offices are to be lodged with the records, and are not to be removed from the office.

Published by order of the Right Hon'ble the Governor in Council,
JOHN BAX, Secy. to Govt.

NOTICE.

The Government Printing and Lithographing Departments having been transferred to the BOMBAY EDUCATION SOCIETY, all Printing and Lithographing required by any Department should be sent to the Office at Bycullah.

Bombay, 5th April 1848.

J. G. LUMSDEN, Secy. to Govt.

Legislative Council.

31st January 1857.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General on the 17th January 1857, and is hereby promulgated for general information:—

ACT No. I. OF 1857.

An Act to prevent the Over-crowding of Vessels carrying Native Passengers in the Bay of Bengal.

Whereas it is necessary to prevent the over-crowding of vessels carrying native passengers across the Bay of Bengal from and to ports in the Presidency of Fort St. George, and between such ports and Ceylon; It is enacted as follows:—

I. No vessel shall carry native passengers from any port or place under the Presidency of Fort St. George, to any port or place on the Eastern Coast of the Bay of Bengal, or in the Straits of Malacca, or in Ceylon, in a proportion greater than one passenger to every four tons of the burden of such vessel, without a license.

II. No vessel shall be licensed to carry passengers on any such voyage as aforesaid in a proportion greater than one passenger to every ton of burden, nor unless the vessel has space on a deck or platform under hatches reserved for the accommodation of the passengers in the proportion of six superficial feet for every passenger, with not less than five feet clear between the upper deck and the lower deck or platform; except a vessel

And in licensed vessels sailing in ballast from certain parts of the Coast to Ceylon.

proceeding in ballast from any part of the Coast of the Gulf of Manar or Palks' Strait to any port or place in Ceylon which may be licensed to carry a number of passengers not exceeding the proportion of two and a half to every ton of her burden, provided that the whole of the space usually allotted for cargo and not occupied by ballast be kept for the accommodation of the passengers, and for storing the provisions and water for their use, and that the space left clear for the accommodation of the passengers on the deck or decks of the vessel be not less than four superficial feet for each passenger.

III. The Master or Tindal of any vessel which shall carry passengers on any such voyage as aforesaid, without a license, in a proportion exceeding that laid down in Section I., shall be liable to a fine not exceeding two hundred Rupees.

IV. The Master or Tindal of any licensed vessel which shall carry on any such voyage a greater number of passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be liable to a fine not exceeding twenty Rupees for each passenger in excess of such number, or for each passenger who is not provided with accommodation agreeably to the license.

V. Passengers in a greater number than one passenger to every four tons of the burden of any vessel shall not be shipped from the territories under the Government of Fort St. George, for Ceylon or the Eastern Coast

Government to appoint ports for shipment of passengers, where the number of passengers to be carried is greater than one to every four tons of burden.

the person occasioning such vacancy. Provided that on any vacancy in the said office which shall occur by effluxion of time, the Governor General of India in Council shall have power to reappoint the Vice-Chancellor hereinbefore nominated, or any future Vice-Chancellor, to such office.

VI. The Lieutenant Governors of Bengal and the North-Western Provinces, the Chief Justice of the Supreme Court of Judicature at Fort William in Bengal, or of any Court of Judicature hereafter to be constituted, to or in which the powers of the said Supreme Court may be transferred or vested, the Bishop of Calcutta, and the Members of the Supreme Council of India, all for the time being, shall be *ex officio* Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty; and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor General of India in Council shall forthwith, by notification in the *Calcutta Gazette*, nominate so many fit and proper persons to be Fellows of the said University as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor General of India in Council from nominating more than thirty persons to be Fellows of the said University, if he shall see fit.

VII. The Governor General of India in Council may cancel the appointment of any person already appointed, or hereafter to be appointed, a Fellow of the University, and as soon as such order is notified in the *Gazette*, the person so appointed shall cease to be a Fellow.

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of, and superintendence over, the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same; and touching the examination for honours and the granting of marks of honour for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for degrees, and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor General of India in Council.

IX. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the

members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least, shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or, in his absence, the Vice-Chancellor, shall preside as Chairman; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

X. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and, as they shall see occasion, to remove all Examiners, Officers, and servants of the said University.

XI. The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees marks of honour for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act.

XII. Except by special order of the Senate, no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate, from one of the Institutions authorised in that behalf by the Governor General of India in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

XIII. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for degrees to be held at least once in every year; on every such examination, the candidates shall be examined either by Examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other Examiners so to be appointed; and on every such examination, the candidates, whether candidates for an ordinary degree or for a degree with honours, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

XIV. At the conclusion of every examination of the candidates, the Examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honours which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Calcutta, and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

XV. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor General of India in Council, shall from time to time

see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University, under the directions and regulations of the Governor General of India in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted, for such examination and audit as the said Governor General of India in Council may direct.

W. MORGAN,
Clerk of the Council.

Legislative Council.

7th February 1857.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General on the 31st January 1857, and is hereby promulgated for general information :—

ACT No. III. of 1857.

An Act relating to Trespasses by Cattle.

Whereas loss and injury are suffered by cultivators and occupiers of land from damage done to crops and other produce of land by the trespass of Cattle; and whereas damage is done to the sides and slopes of public roads and embankments by cattle trespassing thereon; and whereas it is expedient to authorise the seizure and detention of Cattle doing damage as aforesaid, and also to make provision for the disposal of cattle found straying in any public place; It is enacted as follows :—

I. Section IV. Regulation V. 1830 of the Bengal Code, Sections XII. and LII. Regulation XI. 1816 of the Madras Code, and such parts of Sections XIX. XLV. and LIII. Regulation XII. 1827 of the Bombay Code, as authorise the Magistrates or Police Officers to take charge and dispose of stray Cattle, are hereby repealed.

II. It shall be lawful for the cultivator or occupier of any land to seize, or cause to be seized, any cattle trespassing on such land, and doing damage to such land, or any crop or produce thereon, and to convey them without unnecessary delay to the pound established for the village or township in which the land is situate. Village and other Police Officers, when called upon, shall give their aid to cultivators and occupiers making such seizures.

III. Pounds shall be established at the thannahs or District Police Stations, and at such other places as the Magistrate, under the orders of the local Government, may determine. The village or villages, by which every pound is to be used shall be determined and notified by the Magistrate.

IV. The pounds shall be under the control of the Magistrate of the district, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the local Government shall direct. Provided that in the Presidencies of Fort St. George and Bombay, the heads of villages and Police Patells shall be *ex officio* the keepers of village pounds.

V. When Cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner if known, and shall give a copy of the entry to the seizer. The pound-keeper shall take charge of and feed the Cattle, until disposed of as hereinafter directed.

VI. For every head of Cattle impounded as aforesaid, a fine shall be levied according to the following scale :—

Fines.	Annas.
Camel or Buffalo	8
Horse or Tattoo, Bull, Bullock, or Cow.	4
Calf or Ass	2
Sheep or Goat	1

and no Cattle shall be released by a pound-keeper without the payment of such fine unless the release be ordered by competent authority.

VII. If the owner appear and claim the Cattle, they shall be delivered to him on payment of the prescribed fine, together with the expense of feeding the Cattle at such rates as may from time to time be fixed by the Magistrate; and the owner, on taking back his Cattle, shall sign a receipt for them in the register kept by the pound-keeper. A schedule of the fines and of the rates of charge for feeding Cattle shall be stuck up in a conspicuous place on or near to every pound.

VIII. If the Cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall make his report to the Darogh or district Police Officer, who shall stick up in a conspicuous part of the Police Office a notice containing a statement of the number and description of the Cattle, the place where they were seized, and the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village, and at the market-place nearest to the place of seizure. If the Cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the Darogh or District Police Officer, or an Officer of his establishment deputed for the purpose.

IX. If the owner appear, and refuse or omit to pay the fines and expenses, the Cattle, or as many of them as may be necessary, shall be sold by public auction for the recovery of such fines and expenses by the Darogh or other Officer as aforesaid; and the remaining Cattle, and the balance of the purchase money, if any, shall be delivered to the owner, together with an account showing the number of Cattle seized, the time during which they have been impounded, the charge for fines and expenses, the number of Cattle sold, the proceeds of sale, and the manner in which those proceeds have been disposed of; and the owner shall grant a receipt for the Cattle delivered to him, and for the balance of the purchase money paid to him (if any) according to such account. Provided always, that if a complaint against the seizure shall have been preferred under the provisions of Section XLV. of this Act, no sale shall be made until the case shall have been decided, nor otherwise than according to the order which may be passed in such case.

X. Police Officers and pound-keepers are prohibited from becoming, directly or indirectly, purchasers of any Cattle at a sale under this Act.

XI. When Cattle are sold under the provisions of this Act, the fines leviable, and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the sale proceeds. The fines so recovered, as well as all fines received by the pound-keepers under Section VII., shall be transmitted to the Magistrate by the Darogh or District Police Officer. The expenses of feeding realised by sale shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under Section VII. The surplus proceeds of the sale of unclaimed Cattle shall be transmitted to the Magistrate, who shall hold

them in deposit for three months, and, if no claim to them be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

XII. The sums received on account of fines, and the unclaimed proceeds of the sale of unclaimed Cattle, shall form a fund, which shall be available for the payment of any salaries which may be allowed to pound-keepers under the orders of the local Government, or of expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act.

XIII. Every person who shall forcibly oppose the seizure of Cattle doing damage to land, or to crops or other produce of land, or shall forcibly rescue the same after seizure, either from a pound, or from the seizer when conveying or about to convey them to a pound, shall be liable for such offence to imprisonment, with or without labour, for a period not exceeding six months, or to a fine not exceeding five hundred Rupees, or to both. Offences under this Section shall be dealt with by the Police Officers according to the provisions of Section XXV. Regulation XX. 1817 of the Bengal Code, Section XXVII. Regulation XI. 1816 of the Madras Code, and Section XLIII. Regulation XII. 1827 of the Bombay Code.

XIV. Any person whose Cattle shall have been seized and detained as doing damage to land, or any crop or produce thereon, may prefer a complaint against the seizure at any time within ten days from the date thereof, to the Magistrate, or to any Joint, Deputy, or Assistant Magistrate, or other Officer having criminal jurisdiction, authorised to receive and try charges without reference by the Magistrate. The complaint may be either verbal, in which

case the substance of it shall be taken down in writing by the Magistrate or other Officer as aforesaid, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. The Magistrate or other Officer as aforesaid, if on examination of the complainant or his agent he shall see reason to believe the complaint to be well founded, shall summon the party complained against, and shall proceed to make a summary inquiry into the case. If the seizure be adjudged

illegal, the Magistrate or other Officer as aforesaid shall award to the complainant such damages, not exceeding in any case the sum of Rupees one hundred, as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure and detention, together with all expenses incurred by the complainant in procuring the release of the Cattle; or, if the Cattle have not been released, the Magistrate or other Officer as aforesaid, in addition to the award of damages, shall make an order for their release, and shall direct that the fines and expenses leviable under this Act shall be paid by the party who made the seizure. Moonsiffs and other

Judicial Officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the local Government with the power of receiving and trying complaints under this Section, and, in the exercise of such powers, shall be subject to the same rules as Assistants and other Officers subordinate to the Magistrate.

XV. Persons in charge of public roads, canals, embankments, and the like, may seize or cause to be seized any Cattle doing damage to the sides or slopes

of such roads, canals, embankments, and the like; and all the foregoing provisions of this Act shall be applicable to such seizures.

XVI. Village and other Police Officers shall convey to the pounds established under Section III. of this Act all Cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of Cattle seized as trespassing and doing damage, shall be applicable to all Cattle impounded as aforesaid.

XVII. When any person commits mischief by causing Cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorised to seize Cattle under Section II. of this Act, or of any person who may have made advances for the cultivation of the land and delivery of the produce; and any fine which shall be so adjudged may be recovered by sale of the Cattle by which the trespass was committed, or any portion of them, whether the Cattle were seized in the act of trespassing or not, and whether such Cattle are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

XVIII. Any person, being an owner or keeper of pigs, who, through neglect or otherwise, shall damage, or cause, or permit to be damaged, any land, or any crop or produce of land, by allowing pigs to trespass thereon, shall be liable for such offence to a fine not exceeding ten Rupees. All sums recovered under this

and the last preceding Section may be appropriated in whole or in part to compensate the complainant for damage proved to the satisfaction of the Magistrate.

XIX. Nothing contained in this Act shall be held to prohibit any person, whose crops or other produce of land shall have been damaged by trespass of Cattle, from instituting a suit for the recovery of damages in any competent Court. Provided that any compensation which may have been paid to any such person by order of the Magistrate shall be set off and deducted from any sum claimed by or awarded to him as damages in such suit.

XX. The local Government, with the sanction of the Governor General in Council, may exclude from the operation of this Act any district or tract of country to which its provisions may be judged unsuitable.

XXI. In the construction of this Act, words importing the singular number shall include the plural, and words importing the plural number shall include the singular; words importing the masculine gender shall include females; the word "Magistrate" shall include a Joint Magistrate, or other Officer lawfully exercising the powers of a Magistrate; the expression "Darogah or District Police Officer" shall, in the North-Western Provinces of the Presidency of Fort William, include a Tehseeldar or Naib Tehseeldar entrusted with Police powers.

XXII. This Act shall commence and take effect from and after the first day of May 1857.

W. MORGAN,
Clerk of the Council.

Legislative Council.

14th February 1857.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General on the 9th February 1857, and is hereby promulgated for general information:—

ACT No. IV. OF 1857.

An Act to amend the Law relating to the Duties payable on Tobacco, and the Retail Sale and Warehousing thereof in the Town of Bombay.

Whereas it is expedient to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing of that article in the Town of Bombay; It is hereby enacted as follows:—

I. Chapters V. VI. VII. and VIII. of Regulation XXI. 1827 of the Bombay Code, and Act XXIV. of 1850,

Laws repealed.

are hereby repealed, but not so as to revive any other Regulation or Act thereby repealed.

II. All Tobacco (except such small quantities as are

Municipal Duty on Tobacco intended for consumption in Bombay.

hereinafter mentioned) imported from any place into the Town of Bombay, and intended for consumption therein, shall be liable to a duty of seven Rupees and eight annas per maund of forty seers, of eighty tolas to the seer, which duty is hereinafter called the Municipal Duty; and such duty shall be leviable in addition to any Customs Duty prescribed by law.

III. The said Municipal Duty may be paid at the option of the importer, either

Municipal Duty when payable.

on the importation of the Tobacco, or after it has been warehoused as hereinafter provided.

IV. If the said Municipal Duty is not paid on importation, the Tobacco shall

Duty, if not paid on importation, to be paid on removal from warehouse for consumption.

be warehoused in a public or licensed warehouse within the meaning of Act XXV. of 1836; and the importer shall pay such duty on the said Tobacco on its removal from the warehouse for consumption in the said Town.

Remission of Municipal Duty on re-exportation.

When Tobacco so warehoused is re-exported to any place beyond the limits of the said Town, the whole of the said Municipal Duty shall be remitted.

V. The port of Bombay shall, after the passing of this Act, be held to be a

Bombay a warehousing port for Tobacco.

warehousing port within the meaning of Act XXV. of 1836, so far as regards the warehousing of Tobacco; and the provisions of the said Act, so far as the same are applicable, shall be applied to the warehousing of Tobacco in the said Town. The Import Duty in the said Act mentioned shall, as to Tobacco, include the Municipal Duty leviable under this Act.

VI. The Commissioner of Customs, Salt, and

Powers for collection and enforcing payment of the Municipal Duty.

Opium, and Officers of Customs, shall have all the same powers and authorities for collecting and enforcing payment of the said Municipal Duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of Customs.

VII. It shall not be lawful, without the permission of the Commissioner of

Tobacco not to be imported otherwise than by Sea.

Customs, Salt, and Opium, or other Officer empowered by Government to grant such permission, to bring any Tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land

Landing-places to be prescribed.

the same at any other landing-places than such as may

from time to time be prescribed by the Government of Bombay.

VIII. The foregoing provisions of this Act shall

Exemptions from Duty. not be applicable to such small quantities of Tobacco (not exceeding in weight four seers, of eighty tolas to the seer) as are intended for the private consumption of the importer.

IX. It shall not be lawful to remove any Tobacco

Permit necessary for removal of Tobacco. from one place to another within the said Town, nor to carry or convey the same on

any thoroughfare in the said Town, nor to carry the same in any vessel or boat of less than forty caudies burthen in any of the creeks or waters adjacent to the said Town, without a Permit from the Commissioner of Customs, Salt, and Opium, which Permit shall be in the form of Schedule A to this Act annexed, or to the like effect. Any such Permit shall be in force only between sunrise and sunset of the day for which it is granted. Provided always,

Proviso.

that it shall be lawful to convey without a Permit any Tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of Tobacco, not exceeding in weight four seers, of eighty tolas to the seer, for personal or domestic use.

X. No Permit shall be granted for the removal

No Permit for removal of less than a bale from warehouse. from warehouse of any quantity of Tobacco less than an entire bale or package. Provided that, when Tobacco is

Proviso.

to be removed for consumption in the said Town, the Commissioner of Customs, Salt, and Opium, may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste; and the said refuse or waste may be re-exported, under the rules for the re-export of Tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner.

XI. It shall not be lawful for any person to sell or

License for retail sale of Tobacco. offer for sale by retail any Tobacco in the said Town without a license from the

Commissioner of Customs, Salt, and Opium, or other Officer duly empowered by Government in that behalf, which license shall be in force for a period of twelve Calendar months from the date thereof, unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act. A Fee of one Rupee shall be paid for every such license.

XII. Any sale of Tobacco not exceeding in weight

What to be deemed a retail sale. fourteen seers, of eighty tolas to the seer, shall be deemed to be a retail sale within the meaning of this Act.

XIII. It shall not be lawful for any licensed retail

Retail sale to be only at the place mentioned in the license. dealer in Tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or

other premises as may be specified in his license; and the name of every retail dealer in Tobacco, together with the number of his license, shall be written or painted in English, Guzerathee, and Murathee, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail sale is carried on.

XIV. Every retail dealer in Tobacco shall, on or before

Monthly returns of stock to be made by retail dealers. the 10th day of each month, make to the Commissioner of Customs, Salt, and Opium, or other Officer as aforesaid, a separate return for each shop or place of sale

for which he holds a license, showing the quantity of Tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which he received it, and the stock remaining at the close of such month; and any retail dealer who refuses or neglects to make such return, or makes a false return, shall be liable to be deprived of his license by the said Commissioner or other Officer as aforesaid, and to pay a fine not exceeding two hundred Rupees.

XV. Every retail dealer in Tobacco shall, on the same day on which he shall receive any Tobacco into any such shop or place of sale, enter in a book to be kept for that purpose, the weight of such Tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it; and such book shall be open to the inspection of the Commissioner of Customs, Salt, and Opium, or other Officer as aforesaid, or of any person authorised by the Commissioner or such Officer to inspect the same; and the Commissioner, or other Officer or person as aforesaid, inspecting the said book, may make any minute therein, or any extract therefrom, which he shall think fit; and any retail dealer who neglects or refuses to comply with the provisions of this Section shall for every offence be liable to be deprived of his license by the said Commissioner or other Officer as aforesaid, and to pay a fine not exceeding two hundred Rupees.

Search Warrant. Opium, or other Officer as aforesaid, may issue a warrant under his hand and seal to any public Officer, commanding him to enter and search between sunrise and sunset any building or place to be specified in the warrant in which Tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed— which information shall be taken down in writing—that Tobacco is deposited contrary to the provisions of this Act; and to seize, and take away from thence, any Tobacco or other articles subject to confiscation under this Act.

XVI. The Commissioner of Customs, Salt, and Opium, or other Officer as aforesaid, may issue a warrant under his hand and seal to any public Officer, commanding him to enter and search between sunrise and sunset any building or place to be specified in the warrant in which Tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed— which information shall be taken down in writing—that Tobacco is deposited contrary to the provisions of this Act; and to seize, and take away from thence, any Tobacco or other articles subject to confiscation under this Act.

XVII. The Commissioner of Customs, Salt, and Opium, or other Officer as aforesaid, or any public Officer authorised by the Commissioner or such officer, may arrest and detain any person carrying or having charge of any Tobacco liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such Tobacco.

XVIII. All Tobacco imported into the said Town, or removed from one place to another, or kept within the said Town, or found in the possession of any person in the said Town, selling or offering any portion thereof for sale, contrary to the provisions of this Act, and every vessel in which such Tobacco is contained, and every vehicle, boat, or animal employed with the consent and knowledge of the owner or his servant in conveying the same, shall be liable to confiscation. Provided always, that it shall be lawful for the adjudicating Officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation; and every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation.

XIX. Any person who shall illegally import, remove, or sell in the said Town, any Tobacco, or who shall knowingly have in his possession any Tobacco sub-

ject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such Tobacco; and if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt, and Opium, or other Officer as aforesaid.

Revocation of license. and if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt, and Opium, or other Officer as aforesaid.

XX. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the Town of Bombay. Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

XXI. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction:—

The words "Town of Bombay" shall include all places within the Islands of Bombay and Colaba.

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.

SCHEDULE A.

FORM OF PERMIT.

No.

A. B. has been permitted to remove from (Custom House or licensed warehouse or shop No. situated in Kalbadavie Street, to warehouse or shop No. in Bazar Street) the undermentioned quantity of Tobacco, between sunrise and sunset on the day of in the year

(Signed) _____

Commissioner of Customs, Salt, and Opium.

W. MORGAN,
Clerk of the Council.

Legislative Council.

7th February 1857.

The following Bill was read a second time in the Legislative Council on the 7th February 1857, and was referred to a Select Committee, who are to report thereon after the 11th of April next:—

A Bill for raising Funds for Making and Repairing Roads in the Suburbs of Calcutta and the Station of Howrah.

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

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

II. A tax shall be imposed upon all carriages, horses, ponies, and mules kept within the limits of the said suburbs and station as those limits are defined in

Penalty for illegal importation, removal, sale, or possession.

Act—1857, at the rates specified in the annexed Schedule, and shall be payable quarterly by the owners or persons having charge of the same.

III. Provided that the carriages and animals hereinafter mentioned shall be exempt from the tax, namely,
Exemptions.
Gun-carriages, and Ordnance carts and waggons.
Cavalry horses.

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

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

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

V. Every person, who may have owned or had charge of any carriage or animal kept within the said suburbs or station for a period exceeding thirty days in any quarter, shall be liable to the whole tax for that quarter.
What will constitute liability to the tax for a whole quarter.

If the period do not exceed thirty days, no tax shall be chargeable for that quarter. Provided that, when any person owning or having charge of any carriage or animal shall transfer the same to another person, he shall give notice thereof to the Collector within one week of the date of such transfer, or, if he fail to give such notice, shall be liable to the whole tax for the quarter, although the period during which he may have owned or had charge of such carriage or animal shall not have exceeded thirty days.

VI. When a carriage shall have been under repair at a carriage-maker's for more than thirty days in any quarter, the Collector shall remit so much of the tax for that quarter as may be proportionate to the number of days the said carriage may have been under repair.
Carriages under repair.

VII. The Collector, at his discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the rates specified in the Schedule.
Collectors may compound with livery stable-keepers.

VIII. Carriages and horses let out for hire, and kept for the time being in premises situated within the said suburbs or station, although owned by livery stable-keepers or others not residing within the limits of the said suburbs or station, shall be subject to the tax, and the sums to be charged for such carriages and horses shall be recoverable from the persons in whose premises they are for the time being kept.
Carriages and horses let for hire to residents in the suburbs liable to the tax.

IX. Every carriage of the description rated in the Schedule at one Rupee and eight annas, kept within the said suburbs or station and let out for hire, shall be registered in the Office of the Collector, and shall bear, in such manner as the Collector shall direct, the number of such registration. The registration shall be made and the number assigned annually upon such day in each year as the Collector shall appoint. Any person becoming possessed, within the year, of any such carriage which has not been registered, may obtain registration on application to the Collector at his Office. When any registered carriage is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.
Registry and numbering of carriages for hire.

X. Whoever keeps any such carriage, required to be registered by the provisions of the last preceding
Penalty for not registering.

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

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

XII. In order to enable the Collector to make such list, the Collector, or any Officer authorised by him, may send, to all persons supposed to be liable to the payment of the tax, a Schedule to be filled up with such information respecting the carriages and animals kept by them as the Collector may judge necessary for the assessment of the tax. The Schedule shall be filled up in writing, and signed and dated, and returned to the Office of the Collector by every person to whom it is sent, whether or not liable to the payment of the tax; and whoever refuses, neglects, or omits duly to fill up and return such Schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.
Returns may be required for purpose of making list.

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

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

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

XVI. When any sum is due on account of the said tax, the Collector shall cause to be presented to the person
Bill to be presented.

liable to the payment thereof a bill for the amount, which shall also contain a statement of the period and a description of the carriages and animals for which the charge is made, together with a notice of the time within which an appeal may be preferred.

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

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

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

Act shall be such as are set forth in the table of fees in the said Schedule.

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

XXI. Previously to the first day of May of each year, an estimate shall be prepared of the amount required during the year for the purpose of making and repairing roads in the said

suburbs and in the said station; and such estimate, when sanctioned by the Lieutenant Governor, shall be published in the official *Gazette* for general information. If the said estimate shall exceed the sum which

the carriage and horse-tax is estimated to produce, with the addition of such further sums as may be assigned by Government for the said

purpose out of the Ferry Fund, or any other public fund, such excess shall be added to the amount of the assessment or rate to be levied in the said suburbs and station under Act XX. of 1856, and shall be made and recovered according to the provisions of that Act.

XXII. The proceeds of any assessment or rate made as aforesaid shall be kept distinct from the proceeds of the assessment or rate made for the purposes of the said Act XX. of 1856,

and such proceeds, together with all sums received by the Collector of the carriage and horse-tax, and all sums assigned by Government as above provided, and all fines and penalties levied under this Act, shall form a fund, which shall be called in the suburbs of Calcutta "the suburban roads fund," and in the station of Howrah "the station roads fund." All expenses incurred for the purpose of this

Appropriation of fund. Act shall be defrayed from the said fund, and the residue shall be applied exclusively to making, repairing, and improving roads within the limits of the said suburbs and station. Provided that no payment shall be made from the said fund for the repair of such roads or parts of roads as are hereinafter described, namely, in the said Suburbs—

The Barrackpore road with the Lock gate road.
The road from the Cossipore gun-foundry to Dum-Dum.

The Belgatchya or Dum-Dum road.

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

The Budge Budge road.

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

The Canal roads, and the roads leading from the Canals and Salt-water lake into the Town, namely the Ballighatta, Narkooldangah, Manicktollah, Ooltadunga, Gooreepara. South Sealdah, Khooleah, Nimtollah, Jonmajoy Baboo's Khodagunge, and Khodghatta roads, and the Soorah road between the Ballighatta and Narkooldangah roads.

In the said Station—

The Hooghly road from the part where it is crossed by the old Benares road.

The old Benares road from the same point—or for making or maintaining any part of any other main road of communication between the Town of Calcutta and the interior of the country which may hereafter be constructed.

XXIV. The Lieutenant Governor of Bengal shall cause Statements to be prepared annually of all expenses incurred on account of making, repairing, and improving the roads of the said suburbs, and of the said station, and of all sums credited to, and disbursed from the suburban roads fund and the Howrah station roads fund, and the said Statements shall be published in the official *Gazette* for general information.

SCHEDULE.

Rupees per Quarter.

For every 4-wheel carriage on springs drawn by two horses	4	8	0
For every 4-wheel carriage on springs drawn by one horse, or pony, or a pair of ponies under thirteen hands	1	8	0
For every 4-wheel carriage, without springs.	1	8	0
For every 2-wheel carriage on springs	2	4	0
For every 2-wheel carriage without springs, drawn by a horse, pony, or mule	0	12	0
For every horse	2	4	0
For every pony under thirteen hands, or mule	0	12	0
Ponies under eleven hands, and children's carriages the wheels of which do not exceed twenty-four inches in diameter			Exempt.

A.

NOTICE OF DEMAND.

Take notice that the Collector of the horse and carriage-tax for demands from you the sum of due from you for for the months of 185 ; and that if the sum due is not paid into the said

Collector's office at _____ or if sufficient cause for the non-payment of the sum is not shown to the Collector, within five days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

(Date.)

(Signature of the Collector.)

B.

DISTRESS WARRANT.

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

Whereas _____ of _____ has not paid or shown sufficient cause for the non-payment of the sum of _____ Rupees due for the taxes mentioned in the margin for the months of 185 _____ although the said sum has been duly demanded in writing from the said _____ and five days have elapsed since the service of the notice of demand: This is to command you to distrain the goods and chattels of the said _____ to the amount of the said sum of _____ Rupees, and such further sum as may be sufficient to defray the charges of taking, keeping, and selling such distress; and if, within five days next after such distress, the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking

and keeping such distress, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the said sum of _____ Rupees, and the charges of taking, keeping, and selling such distress, to return the surplus, if any, on demand, to the person whom you shall find in possession of the said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said _____ you are to certify the same to me, together with this warrant.

(Signature of the Collector.)

C.

FORM OF INVENTORY AND NOTICE.

(State particulars of Goods seized.)

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

(Date.)

(Signature of the Collector.)

W. MORGAN,
Clerk of the Council.

Insolvent Debtors' Court.

Notice is hereby given, that the Petitions of the several Persons hereunder named and described have been presented to the Court for the Relief of Insolvent Debtors, Bombay, praying, respectively, for the benefit of the Act made and passed in the Eleventh Year of Victoria, Chapter XXI. :—

Names.	Profession.	Denomination.	Place of Residence in Bombay.	Dates of Petitions filed.		
				Day.	Month.	Year.
Sumsoodin bin Bundoo Meeya Markay.	None.....	Mahomedan.	Without the Fort, at Parell Road, commonly called Baba Hazam Street.	24th	Feb.	1857
Aaron Solomon Gindill and Mayar Solomon Gindill.	Carrying on business as Bookbinders, under the name of Aaron Gindill.	Jews.....	Without the Fort, at Byculla.	25th	"	"
Ballajee Heerajee. ...	Late a Compositor in the Bombay Government Gazette.	Hindoo.....	Without the Fort, in Candaywaddy.	28th	"	"
Nusserwanjee Ardaseer Bhanjah.	Formerly a Merchant.....	Parsee.....	Without the Fort, in Dady Sett's Agiary Street.	2nd	March	"

Orders in the matters of the abovenamed Insolvents' Petitions, that the real and personal Estates and Effects of the said Insolvents be vested in the Official Assignee of this Honorable Court, under Clause VII. of the said Act, have been duly made.

Days appointed for Hearing the Petitions of the undermentioned Insolvents.

Names.	Time.		
	Day.	Month.	Hour.
Burjorjee Furdoonjee.....	3rd Monday....	March instant	11 o'clock.
Gungadass Goverdass.....	1st Monday....	April next.....	Ditto.
Nusserwanjee Ardaseer Bhanjah.....	Ditto	Ditto	Ditto.

Opposing Creditors must file their Claims, verified by Affidavit, and pay the usual Fees, at my Office, at least three days before the Hearing. The abovenamed Insolvents have filed Schedules of their Debts, Estates, and Effects in my Office.

Dividends payable in the undermentioned Insolvents' Estates.

Narrayan Govind Poy.... 3rd Monday in March instant, of 10 per cent.
Joseph de Cruz..... Ditto ditto, of 10 per cent. on the 1st and 2nd Insolvency.
Raghowanund Sowmitra.. Ditto ditto, of 4 per cent.

J. A. McKENZIE, Clerk of the Court,

By W. J. BROOKFIELD.

Clerk of the Court's Office, Fort, Bombay, this 3rd day of March 1857.

નાદાર દેવાદારોની કોર્ટ મધે.

જાહેર ખખર એ ઉપરથી આપવામાં આવે છે, જે, વિગત સાથે હેની હેઠળ જે જુદી જુદી આશામીઓનાં નામો લખેલાં છે, તેઓએ મુંબઈની નાદાર દેણદારોનાં છુટકા કરનારી કોર્ટને અરજીઓ આપી છે, તેમાં એક એકની અરજ હેવી છે જે વિક્ટોરીયાના અગિઆરમે વરસે જે ધારો કરીને ઠરાવો છે, તેના એકવિરામાં બાબમાંનો ધલાલ હમોને મળે.

નામ.	ધંધો.	જાત.	મુંબઈમધે રહેવાનું ઠેકાણું.	અરજીઓ દાખલ કરાની તારીખ.		
				દાહાડા.	માસ.	વરસ.
રામશુદીન ખીન બનદુમી આ મારકે.	કંઈ નહીં	મુસલમાન.	બાહારકોટ પરેલના રરાતા-ઉપર બાબા હજમની ગલીમાં.	૨૪ મો	ફેબ્રુવારી.	૧૮૫૭.
આરન શુલેમાન ગીનડીળ તથા માઆર શુલેમાન ગીનડીલ.	લુક બાંધવાનો ધંધો આરન ગીનડીલને નામે કરે છે.	ઈઆહુદી.	બાહારકોટ ભાંએખલા ઉપર.	૨૫ મો	એપ્રિલ.	એપ્રિલ.
બાલાજી હીરાજી	થોડાદાહાડા ઉપર મુંબઈના ગ-વર્મેન્ટ ગેજેટમાં કમપોજી-૨૨ હતો.	હીંદુ.	બાહારકોટ કાંદાવાડીમાં...	૨૮ મો	એપ્રિલ.	એપ્રિલ.
નરારવાનજી અરદેશર ભા-લુખ.	આગલ વેપારી હતો	પારસી.	બાહારકોટ દાદીરોડની અ-ગીઆરીના મોહોલામાં.	૨ જો	માર્ચ.	એપ્રિલ.

ઉપર લખેલા નાદાર દેવાદારોની અરજીઓની બાબતોમાં ઘટતી રીતે હુકમ થયો છે, જે ઉપર લખેલા ધારાની સાતમી કલમ પ્રમાણે નાદાર દેવાદાર મજકુરોની સ્થાવર તથા નંગમ મિલકત તથા ચીજવસ્તુ આ નામદાર કોર્ટનાં આફિસિઆલ આશાએનીના તાબામાં આવે.

નીચે લખેલા નાદાર દેવાદારોની અરજીઓ સાંભળવાસાર ઠરાવેલા દીવસ.

નામ.	વખત.		
	દાહાડા.	માસ.	કલાક.
ભરજેરજી ફરફુનજી	૩ જો સોમવાર.	ચાલતો માર્ગ.	૧૧.
ગંગાદારા ગોવરદારા	૧ જો સોમવાર.	આવતો અપરેલ.	એપ્રિલ.
નરારવાનજી અરદેશર ભાલુખ.	એપ્રિલ.	એપ્રિલ.	એપ્રિલ.

આડા આવનાર લેણદારોએ, થોડામાં થોડા સાંભળવાના તણુ દાહાડા અગાઉ, સોગણુનાંમાથી સાખીત કરેલા પોતાના દાવા હમારી આશીસમાં દાખલ કરવા જોઈએ, તથા સિરસ્તા પ્રમાણે તેઓને શી આપવી જોઈએ. ઉપર લખેલા નાદાર દેવાદારોએ પોતાના દેવાની, તથા માલ મિલકતની, ટીપો હમારી આશીસમાં દાખલ કરાવી છે.

નીચે લખેલા નાદારના ઇસ્ટેટમાંથી કાલા આપવાને ઠરાવીઆ છે તેહેની વિગત.

નારાએણુ ગોવીંદપદ,	૩ જો સોમવાર	ચાલતો માર્ગ, રોંકેટ ટકા ૧૦.
જોશફ. ડી. ફુરેઝ,	એપ્રિલ.	એપ્રિલ. રોંકેટ ટકા ૧૦. પેહેલા વખત અને બીજા વખતની તેને લાહા મળી તેનાં.
રાધોઆનંદ રાવમીતરા,	એપ્રિલ.	એપ્રિલ. રોંકેટ ટકા ૪.

મુંબઈનાં કોર્ટમધે, કોર્ટના ક્લાર્કની આશીસમાં,
લખી તારીખ ૩ જો માર્ચ સને ૧૮૫૭.

જે. એ. મેકેનજીની
કોર્ટના ક્લાર્કની સહી.

(A true translation)

NARAYEN DINANATHJEE, Acting Chief Translator.

TENDERS FOR COAL.

Notice is hereby given, that the Mint Master is prepared to receive TENDERS for the SUPPLY of 500 TONS of COAL, or of any smaller quantity, not less than 50 tons, for Mint use.

The Coal is to be the best steam coal, and certificates of its quality and description, with a sample, should be forwarded with the tender.

The rate tendered should include all landing and other charges, and also the expense of weighing and of storage on the Mint premises.

The coal shall, if deemed necessary by the Mint Master, be subject to the inspection and approval or otherwise of a Committee of Government Officers, and be at the risk of the tenderer until actual delivery and receipt at the Mint.

The form of tender below given should be adopted without alteration, and Government reserves to itself the right to reject, without assigning reason, any tender, although it may appear to be the lowest.

(Form of Tender.)

To the MINT MASTER, Bombay.

Sir,

With reference to the Notice in the Bombay Gazette dated the 9th October 1856, we hereby tender, for the service of Government, Coal of the undermentioned description, and at the price hereunto annexed :—

Description of Coal.	Per what Ship.	No. of Tons.	Price per Ton of 20 cwt. including all charges.			Amount in Words.
			Rs.	s.	p.	

We agree to each and all of the conditions contained in the Notification above referred to.

We are, &c.

Bombay (Date).

J. H. BURKE, Captain,
Mint Master.

Bombay Mint, 9th October 1856.

જાહેર નોંધ.

કોમ્પાસ પુરા પાડવા વિશેના અરજી.

એલેક્ઝાન્ડ્રી ટેન્ડરના કામસાર ૫૦૦ ટન અથવા ઓછામાં ઓછા ૫૦ ટન કોમ્પાસ પુરા પાડવા વિશેના અરજી મીંટ માસ્ટર લેશે.

પાકના અંત્ર લામ્પેક સાથે અવલ ભતનાં કોમ્પાસ લેખે અને તે કોમ્પાસ છે તથા કુદી ભતના છે એ વિશેની સરકારી કૃતિ તથા તેનો નમુનો અરજ સાથે મોકલવો.

અરજમાં ભાવ લખવો તે કોમ્પાસ કીનારે ઉતારવાનો તથા લેખીને ટેન્ડરના ભાગે આપવા વગેરે સર્વે અર્થ શુધાં લખવો.

મીંટ માસ્ટરને જરૂર પડે તો સરકારી અંમલદારની કામેદી પાસે કોમ્પાસની તપાસ કરાવીને પરશદ કરીને લેશે અને ટેન્ડરના ભાગે કોમ્પાસ લેખીને સોપવામાં આવશે તાહાં શુધીનું લેખ અરજદારને માથે રહેશે.

અરજના નીચે નમુનો લખે છે તે પ્રમાણે કોમ્પાસ ન કરતાં અરજ કરી લેખે અને એકાદી અરજમાં લખેલા દર સર્વેથી કમી હશે તો એપણે તેનું કારણ કહાવશે તે અરજ રદ કરવાને સરકાર મુખ્યત્વાર છે.

અરજના મુદ્દા.

મુંબઈના મીંટ માસ્ટર સાહેબ નીચે.

સને ૧૮૫૬ ઈસવીના અક્ટોબર મહીનાની નવમી તારીખ.

ના મુંબઈ ગયા ૭૨ના વર્તમાન પત્રમાં જાહેરખબર છાપી છે તે ઉપરથી નીચે લખેલી ભતના તથા ભાવથી કોમ્પાસ સરકારી કામ સારે આપવાને અમે રાજી છીએ.

કોમ્પાસની ભત.	ફાળાણ વાહન માંથી આપવાનું.	અમુક ટન.	સર્વે અરજ મુધાં ૨૦ હજાર રૂપિયા ટનનો ભાવ.	અંક.
			રૂ. આ. પે.	

સદરહુ જાહેરખબરમાં લખેલી સર્વે સર્વો અમરે કમુલ છે.

અરજ કરનારની સહી.

મુકામ મુંબઈ તા.

મીંટ માસ્ટર કપતાન જેમ્સ હેનરી બર્ક સાહેબ વાહાદુરની સહી.

જાહિરનામા.

કોલસે પુરવિણ્યા વિષયી અર્જ.

એસા જે ટાંકશાલેલ કામાકરિતાં ૫૦૦ ટન કિંવા કર્મીત કર્મી ૫૦ ટન કોલસે પુરવિણ્યાવિશીં અર્જ મિંટ માસ્ટર ધેલી.

વાકિયે ચંચાલાયક ચાંગલે ઉત્તમ પ્રતીચે કોલસે અસાંવેત આણિ તે કસે આહેત વ કોળતે પ્રતીચે આહેત યાવિશીંચીં સર્ટિફિકેટ વ ત્યાચા નમુના અર્જા વરાવર પાઠવાવા.

અર્જીત દર લિહિજે તો કોલસે કિનાયાસ ઉતરણ્યાચે વ જોલૂન ટાંકશાલેલ ભરૂન દેણ્યાચે ચર્ચા સુધાં લ્યાહાવા.

મિંટ માસ્ટર યાંસ જરૂર વાંટલ તર સર્કારી અંમલદારાચે કમિટી જવલૂન કોલસાચી પાહળા કરૂન પસંત કરૂન ધેલી આણિ ટાંકશાલેલ કોલસે સોપકન દેણ્યાંત ચેત તોપર્યંત ત્યાંચેં જોલૂમ અર્જદારાચે માર્થી રાહીલ.

અર્જીના ચાલી નમુના લિહિલા આહે ત્યા પ્રમાણે કાંઈં ફેરફાર કેલ્યા વાંચૂન અર્જી કેલી પાહિજે આણિ દર અર્જીત લિહિલેલા દર સર્વાંહૂન કર્મી અસેલ તથાપિ કારણ સાંગિતલ્યા વાંચૂન તો અર્જ રદ કરાવાસ સરકાર મુલત્યાર આહે.

અર્જીના મસુદા.

મુંબઈચે મિંટ માસ્ટર સાહેબ યાંસ.

સને ૧૮૫૬ ઈસવીના અક્ટોબર મહિન્યાચ્યા નવે તારલેચ્યા મુંબઈ ગ્યાલેટ યા નાચાચ્યા વર્તમાનપત્રાંત જાહિરખબર છાપલી આહે ત્યાવરૂન ચાલી લિહિલેલે પ્રકારચે વ દરને કોલસે સર્કારી કામાકરિતાં દેણ્યાસ આમ્હી રાજી આહોંત.

કોલસાચા પ્રકાર.	કોલસાચા કિંવા કર્મીત તરફના અર્જા	અંક	સર્વે ચર્ચા સુધાં ચોસ રૂબરૂ ધેવાચે ટનનાં ભાવ.	રકમ અ-ધારી.
			રૂ. આ. પે.	

સદરહુ જાહિર ખબર લિહિલેલ્યા સર્વે ચર્ચા આમ્હાસ કમુલ આહેત.

મુા મુંબઈ તારીખ

અર્જ કરનારાચી સહી.

મિંટ માસ્ટર કપતાન જેમ્સ હેનરી બર્ક સાહેબ વાહાદુર યાચી સહી.

VENAYEK WASSOODIEW,
Oriental Translator to Govt.

MINT NOTICE.

Summary of the Rules for the Receipt of Bullion in the Bombay Mint. (Published under the authority of the Mint Committee.)

1. Tenders of GOLD or of SILVER BULLION will be received from Merchants or from individuals at the Bombay Mint, between the hours of 10 A. M. and 3 P. M. daily (Sundays and Holidays excepted), provided the parcel of Gold shall not be less than Fifty Tolas in weight, and the parcel of Silver not less than One thousand Tolas in weight, and provided such parcels be of a malleable quality, adapted for coinage.

2. Bullion or Coin must be tendered by the proprietor in the following form, lithographed copies of which will be supplied on application at the Mint:—

To the MINT MASTER, Bombay.

Sir,

I beg to tender for coinage, at the Mint rate, the undermentioned Bullion, for which request you will have the goodness to grant a Bullion Certificate, payable at the Treasury at twenty days' sight after the said Bullion shall be received and registered, and its actual out-turn value ascertained at the Mint.

Marks on Boxes.	Mark on Silver.	No. of Boxes.	Description of Bullion.	Assumed Amount in Tolas.	Actual Weight in Troy lbs.

I have the honour to be,

Sir,

Your most obedient Servant,

Bombay,

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3. All Gold and Silver Bullion and Coins that may be tendered to the Mint for coinage, must be melted and cast into Bars by the Mint Premelting Establishment, prior to their being received or assayed.

4. No transfer of Bullion from the name of one proprietor to that of another proprietor can be permitted, after such Bullion has once been tendered to, and actually deposited in the Mint. No Bullion can be withdrawn previous to registry, except sweepings and spillages of Bullion that may have been melted, without the payment of a fee of Rupees two for each Pass permitting such withdrawal.

5. It is to be understood that, until the Bullion or Coin shall be delivered after premelting to the Mint, at the Mint Scales in the Bullion Receiving Room, it is to be considered in the custody and at the risk of the importer, to whom, however, every facility will be afforded for securing it in the Bullion Strongholds.

6. On the receipt of the Assay Report, an account current, which shall be verified by the Assistant Bullion Keeper, showing the net produce of the Bullion or Coin with reference to its weight and Assay value, after deducting the authorised amount of Mint Duty, of Refining, and of Premelting charges, will be submitted to the importer for

his examination and signature, after which shall have been obtained, a Bullion Certificate on the General Treasury, prepared in the Mint Master's Office, will be delivered to him, authorising the holder to receive the amount at twenty (20) days' sight, calculated from the date of the registry or final receipt by the Mint of the Bullion.

7. The Seignorage to be levied on the Coinage of Gold Bullion or Coin will be at the long-established rate of one per cent. on the ascertained standard out-turn value thereof. The Seignorage to be levied on the recoining of Silver Sica Rupees will be at the rate of one per cent. on the out-turn value. There will not be any Seignorage levied on the recoining of short-weight Madras, Furruckabad, or Company's Rupees.

The Seignorage to be levied on the Coinage of all other descriptions of Silver Coins and Bullion will be at the rate of two per cent. on the ascertained out-turn standard value.

8. The Refinage charge on Silver below six pennyweights in Assay worse than the Indian Standard will be at the rate of .04 per cent. per pennyweight of worseness. The Refinage charge on Gold will be at the rate of one-half per cent. for every five carat grains of worseness below the Indian Standard.

9. The Premelting charge on Gold will be at the rate of Company's Rupees three and Annas twelve per one thousand tolas of Standard Gold, and on Silver at the rate of one Company's Rupee per one thousand Standard tolas.

10. Importers of Bullion or Coin will be at liberty to withdraw the same within the day following the receipt of the Assay Report, or within the day following the registry thereof, but at no later period, on payment of an Assay fee of four Rupees for each Assay of Gold Bullion, and of two Rupees for each Assay of Silver Bullion, independent of the payment of the Premelting charges above laid down on the gross weight of such Bullion.

11. Should Bullion, after having been premelted, prove to be brittle, and not adapted for coinage, it will be returned to the proprietor, and passed out of the Mint, under a written Pass, signed by the Mint Master and by the Assistant Bullion Keeper, and the proprietor will have to pay the charges for premelting the same at the prescribed rate, calculated on the gross weight in tolas of the Bullion so rejected.

J. H. BURKE, Captain,
Mint Master.

Bombay Mint, 23rd December 1856.

અહરવામુ.

અહરવું જે મુંબઈની ઇંકશાલમાં રોનું તથા ચાંદી લેવા વિરોની કાંનું નિંટ કમિટિના હુકમ ઉપરથી પ્રસિદ્ધ કરી છે તે.

૧. આદિતવાર તથા છુટીના દાહાડા સિવાય દરરોજ રાવારનાં દશ વાગાથી તે અપોર પછી ત્રણ વાગતાં મુંબઈ રોનું તથા ચાંદી વેપારી પાસેથી અથવા પીળ લોકો પાસેથી મુંબઈની ઇંકશાલમાં લેરો. પણ રોનું પચાસ તોલા કરતાં ઓછું ન જોઈએ તથા ચાંદી હજાર તોલા કરતાં ઓછી ન જોઈએ તથા સદહૂ રોનું તથા ચાંદી શિકો પાડવા લાયક નરમ જોઈએ.

૨. રોનું અથવા ચાંદી અથવા નાણું ઇંકશાલમાં

आपणुं ते माळक्रे ल्हवण लप्पेला सुरादा प्रमाणे अरव लप्पेने आपणुं. अरवणी छापेली नकलो टेंकरालमां मांगवाथी मलरो.

सुंअर्धना मिंठ भास्तर जोग.

नीचे लप्पेनुं रोनुं (अथवा यांदी) टेंकरालना दर प्रमाणे शिको पाडवासां. हजर इं छुं ते रोनुं (अथवा यांदी) टेंकरालमां लघने नोंध्याने तेनी वाळणी किंमत इश्या दाम्पल इश्या वीरा दिवसनी सुदतमां तीजेरीमांथी अवेव मणे मेहेरी अलिअन शरदिक्केट आपे मेहेर्यानी इरीने आपवी.

पेटीओ उपरनी निराणी	यांदी उपरनी निराणी.	पेटीनी संख्या.	सोनु तथा यांदीनी प्रकार.	सुमार वर्ग तोणा.	श्रय वर्ग प्रमाणे नकी वर्ग रतलविगेरे.

सडी.

मुकांम सुंअर्धतारीअ माहे सन

३. जे रोनुं तथा यांदी तथा नांछुं शिको पाडवा सां इकरालमां आपरो ते लीधानी अगाड अथवा तेनी आराणी इकरालनी अगाड ते टेंकरालमां प्रथम गालवाना आपतामां गालीने तेनी लगीओ इरीने जेधुं.

४. रोनुं अथवा यांदी टेंकरालमां अमेक वजत आपी चुक्री अथवा ते अमेक मालकना नांम उपरथी भिजनां नांम उपर अहजवी देरो नही. रोनुं अथवा यांदी नोंध्यानी अगाड टेंकरालमांथी इकराली लघनी लेव तो इकराली लघनी वाळणी चिटी अदल इ. २ शी आप्या वगर इकराली लघनी देरो नही जे रोनुं अथवा यांदी गाली हरो तेनी इयरो अथवा गाल मान लेवा देरो.

५. रोनुं अथवा यांदी अथवा नांछुं प्रथम गाला पछी रोनुं तथा यांदी लेवानी कोटरीमां टेंकरालना कांठा उपर ते रोपी देरो तांहां सुयी ते माळक्रे ताये छे तथा तेनु जेअंम तेने माये छे मेहेरुं सभजुं जेधुं. पणु रोनुं तथा यांदी जंदोअस्तथी राखवानी कोटरीमां ते राखवाविरो तेने सर्वे प्रकारे जंदोअस्त इरी आपरो.

६. आराणीनी रपोट आप्या पछी मिंठ इरीनी तथा रोधवानो तथा प्रथम गालवाना अर्थनी इशेवली रकम आद इरीने रोनांनी अथवा यांदीना अथवा नांछुंना वर्गन प्रमाणे तथा आराणीनी किंमत प्रमाणे नकी उत्पन्न थारो तेनी हिराय आपसिरे अलिअन कोपरनी सलीनी माळक्रे तपारावासां तथा सडी करवा सां आपवी. तेउपर माळक्रेनी सडी यधुं अथवा मिंठ भास्तरनी इरीमां तपआर इरेला ननराव तीजेरी उपरनी अलिअन शरदिक्केट माळक्रे आपवी ते मेहेरी इ नोंध्यानी तारीअथी अथवा रोनुं अथवा यांदी अथवा नांछुं टेंकरालमां नकी इरीने लीधानी तारीअथी विरा दिवसनी सुदतनी ते शरदिक्केटनी रकम ते जेनी पारो हरो तेहेने मणरो मेहेरी मळकुरनी शरदिक्केट आपवी.

७. रोनुं अथवा यांदी अथवा नांछुं शिको पाडवा अदल तेनी वास्तवीक इरी किंमत उपर दर रोक्के अमेक रको प्रमाणे लेरो.—शिका इपैआनी यांदीनी इरीथी शिका पाडवा अदल तेनी वाळणी किंमत उपर दर रोक्के अमेक रको

प्रमाणे लेरो.—मद्रासी तथा इकराली तथा कंपनीना ओछा वर्गनना इपैआनी इरीथी शिको पाडवानी कांठ पेरारो नही.

सदहू शिवाय भिज इपैआनां नांछुंना तथा यांदीना शिका पाडवा अदल वाळणी इरी किंमत उपर दर रोक्के जे रको लेरो.

८. भित्तिर घुंउआना इशेवला रकम इरतां आराणीमां छ पेनीवेर इरतां ओछी नररा यांदी रोधवानो अर्थ पडरो ते अमेक पेनीवेर नररा यांदी अदल रोक्के ० ० ४ आर रातांउरा अमेक दर प्रमाणे पडरो. रोनुं रोधवानो अर्थ पडरो ते भित्तिर घुंउआना इशेवला रकम इरतां दर अमेक पांच क्यारेट जेन, नररा अदल रोक्के अर्थो रको पडरो.

९. प्रथम गालवा अदल अर्थ पडरो ते आ प्रमाणे इशेवला रकम अमेक हजर तोणा रोनाने कंपनी इ. ३ १२ ० पडरो अने इशेवला रकम अमेक हजर तोणा यांदीनी कंपनी इशो १ पडरो.

१०. रोनुं अथवा यांदी अथवा नांछुं टेंकरालमां देनां माणुसोनी पाछुं इकराली लघनी नररा हरो तो आरोनी रपोट दाम्पल यथाथी इमा नोंध दाम्पल यथाथी अमेक दिवसनी अंदर इकराली लघनी नवाने सुअतीआर छे त्यार पछी तेने पाछुं मलनार नही अने सदहू दिवसनी अंदर इकरालीने लघनी त्यारे प्रथम गालवानो अर्थ उपर लप्पो छे ते शिवाय वगी रोनानी दरअमेक आराणी अदल आर इपैआ अने यांदीनी आराणी अदल जे इपैआ शी देवी पडरो.

११. रोनुं अथवा यांदी प्रथम गाल्या पछी ते कंडु छे तथा ते शिको पाडवा लामेक नथी मेहेरुं नररामां आपरो तो ते माळक्रे पाछुं आपणुं अने मिंठ भास्तरनी तथा आपसिरे अलिअन कोपरनी राखनी लप्पेनी परवानगी चिटी उपरथी ते टेंकरालमांथी आहार लवा देवी अने रोनुं अथवा यांदी सदहू प्रमाणे रक इरेल हरो तेना आरा वर्गन उपर इशेवला दर प्रमाणे प्रथम गालवानो अर्थ थारो ते माळक्रे आपवी जेधुं.

सडी.

जेमरा हेनरी अर्क कपतान,

मिंठ भास्तर.

तारीअ २३मी माहे डिसेंबर राने १८५६ इसवी

मुकांम सुंअर्धटेंकराल.

जाहिरनामा.

मुंबई एथील टांकसाळेंत सोने व चांदी घेण्याविषयी कानु मिंठ कमिटीचे हुकुमावरून प्रसिद्ध केल्या आहेत त्या.

१. आदितवार व सुटीचे दिवस खेपेज करून दररोज सकाळचे दाहा वाजल्या पासून दोन प्रहरचे तीन वाजत तां पर्यंत सोने व चांदी व्यापाऱ्या कडून किंवा इतर मुण्या कडून मुंबईचे टांकसाळेंत घेतील परंतु सोने पंजाब तोळ्याहून कमी असुं नये व चांदी हजर तोळ्याहून कमी असुं नये आणि सदहू सोने किंवा चांदी शिक्का पाडण्या योग्य नरम असावी.

२. सोने किंवा चांदी किंवा नाणे टांकसाळेंत देणे तें मालकाने खालील लिहिलेले मसुद्या प्रमाणे अर्ज लिहून दाखवला जाय. अर्जाच्या छापील नकला टांकसाळेंत मागितल्या असता मिळतील.

मुंबई येथील मिंठ बाळर चांदेच चां.

खालील लिहिलेले सोने (किंवा चांदी) टांकसाळेंतील दरा-प्रमाणे शिक्का पाडण्या करिता हजर करितों तें

सोने (किंवा चांदी) टांकसाळेत घेऊन नोंदून त्याची वास्त-
विक किंमत ठरल्या वर लागू केल्या पासून वीस दिवसांचे
मुदतीने तिजोरीतून ऐवज मिळे असे बुलियन सर्टिफिकेट
आपण मेहरबानी करून द्यावे.

पेटोबरोल निष्ठाण्या.	चांदी बरोल निष्ठाण्या.	पेण्यांची संख्या.	सोने किंवा चांदीचा प्रकार.	अज- मास वज्र तोळे.	दाख वजना प्रमाणे नको वज्र रत्न वगैरे.

सही.

मु। मुंबई तारीख माहे सन

३. जें सोने व चांदी व नाणे शिक्का पाडण्या करितां
टांकसाळेत देतील तें घेण्यापूर्वी किंवा त्याची चासणी काढण्या
पूर्वी तें टांकसाळेंतील प्रथम गाळणारे खात्यांत गाळून त्याच्या
लगड्या केल्या पाहिजेत.

४. सोने किंवा चांदी टांकसाळेत एकदा देऊन ठेविली
म्हणजे ती एका मालकाचे नावावरून दुसऱ्याचे नावावर
चढवूं देणार नाही सोने किंवा चांदी नोंदल्यापूर्वी टांकसाळें-
तून काढून नेणे झाल्यास काढून नेण्याचे चिटी बदल दोन
रुपये की दिल्या वाचून काढून नेऊं देणार नाहीत जें सोने
किंवा चांदी गाळिली असेल तिचा कचरा व गाळ मात्र नेवूं
देतील.

५. सोने किंवा चांदी किंवा नाणे प्रथम गाळिल्या नंतर सोने
व चांदी घेण्याचे खोलीतील टांकसाळीचे काढ्यावर तें सोपवून
देत तोंपर्यंत तें मालकाचे ताब्यांत आहे व त्याचें जोडीम
त्याचे शिरावर आहे असे समजलें पाहिजे परंतु सोने व
चांदी बंदोबस्ताने ठेवण्याचे खोल्यांत तें ठेवण्याविषयी त्यास
सर्व प्रकारें सोई करून देतील.

६. चासणीचा रपोट आल्यावर मिंट ड्यूटीची व शोध-
ण्याचे व प्रथम गाळण्याचे खर्चाची ठरविलेली रकम वजा
करून सोन्याचे किंवा चांदीचे किंवा नाण्याचे वजना अन्वयें
व चासणीचे किंमती अन्वयें नकी उत्पन्न होईल त्याचा
हिशोब असिस्टेंट बुलियन क्लिपरचे सहीचा मालकास तपास-
ण्याकरितां व सही करण्याकरितां द्यावा त्यावर मालकाची सही
झाली म्हणजे मिंट मास्तरचे कचेरीत तयार केलेलें जनरल
तिजोरीवरचें बुलियन सर्टिफिकेट मालकास द्यावें तें असें की
नोंदीचे तारिखेपासून म्हणजे सोने किंवा चांदी किंवा नाणे
टांकसाळेत नकी ठरवून घेतल्या तारिखेपासून वीस दिवसांचे
मुदतीने त्या सर्टिफिकेटाची रकम तें ज्या जवळ असेल त्यास
मिळेल असे मजकुराचें सर्टिफिकेट द्यावें.

७. सोने किंवा चांदी किंवा नाण्याचा शिक्का पाडण्या
बदल त्याचे वास्तवीक ठरलेले किमतीवर दर शेकडा एक
टका प्रमाणे घेतल. शिक्का रुपाचे चांदीचा पुन्हा शिक्का
पाडण्या बदल त्याचे वास्तवीक किमतीवर दर शेकडा एक
टका प्रमाणे घेतल.—मद्रास व फरकावादी व कंपनी कमी
वजनाचे रुपाचा पुन्हा शिक्का पाडल्यास कोही पडणार नाही.

सदहू खेरीज इतर रुपाचे नाण्याचा व चांदीचा शिक्का
पाडण्याबदल वास्तवीक ठरलेले किमतीवर दर शेकडा दोन
टके घेतल.

८. ब्रिटिश इंडियाचे ठरविलेले टचाहून चासणीत साहा
पेनीवेटा पेक्षा कमी नरस असणारी चांदी शोधण्याचा खर्च
पडेल तो एक पेनीवेट नरस चांदी बदल शेकडा ०० ४ च्यार

शतांश या दराने पडेल सोने शोधण्याचा खर्च पडेल तो
ब्रिटिश इंडियाचे ठरविलेले टचाहून प्रत्येक पांच क्यारेट
ग्रॅन नरस असल्यास बदल शेकडा अर्धा टका पडेल.

९. प्रथम गाळण्या बदल खर्च पडेल तो येणे प्रमाणे.
ठरलेले टचाचे एक हजार तोळे सोन्यास कंपनी तीन रुपये
बारा आणि पडतील आणि ठरलेले टचाचे एक हजार तोळे
चांदीस कंपनी एक रुपया पडेल.

१०. सोने किंवा चांदी किंवा नाणे टांकसाळेत देणारीं
मुमुष्यें तें परत काढून नेण्यास इच्छित असतील तर आसेचा
रपोट दाखल झाल्यावर किंवा नोंद दाखल झाल्यावर एक दिवसाचे
आत काढून नेण्यास मुखत्यार आहेत मग त्यास परत
मिळनार नाही आणि सदहू दिवसाचे आत काढून नेतील
तेव्हा प्रथम गाळण्याचा खर्च वर लिहिला आहे त्या खेरीज
आणखी सोन्याचे प्रत्येक चासणी बदल चार रुपये आणि
चांदीचे प्रत्येक चासणी बदल दोन रुपये की द्यावी लागेल.

११. सोने किंवा चांदी प्रथम गाळल्या नंतर ती कडक
आहे व शिक्का पाडण्या योग्य नाही असे नजरेस येईल तर
ती मालकास परत करावी आणि मिंट मास्तरचे व असिस्टेंट
बुलियन क्लिपरचे सहीचे लेखी परवानगी चिटी वरून ती
टांकसाळेंतून बाहेर जाऊं द्यावी आणि सोने किंवा चांदी
सदहू प्रमाणे रद्द केली असेल तीचे एन वजनावर ठराविलेले
दरा प्रमाणे प्रथम गाळण्याचा खर्च होईल तो मालकाने
दिल्या पाहिजे.

सही.

जेम्स हेनरी बर्क कपतान,
मिंट मास्तर.

तारीख २३ माहे डिसेंबर सन १८५६ इसवी
मुकाम मुंबई टांकसाळ.

VENAYEK WASSOODEW,
Oriental Translator to Govt.

Memorandum.

The undermentioned MAPS are on SALE at the Chief
Engineer's Office, for CASH:—

	Scale.	Price of each.
Map of the Dharwar Collectorate, 4 miles to an inch.		
Ditto Sholapoor ditto ditto.		
Ditto Rutnagherry ditto ditto.		
Ditto Poona ditto ditto.		Rs. a. p.
Ditto Ahmednuggur ditto ditto.		2 8 0
Ditto Sattara Territory ditto ditto.		or Rs. 3
Ditto Surat Collectorate 2 miles to an inch.		mounted on cloth,
Ditto Broach ditto ditto.		
Ditto Malcolmpeth 500 feet to an inch.		
Ditto Matheran Hill, one furlong to an inch.		
Ditto Kaira Collectorate 2 miles to an inch, Rs. 1-12-0 or Rs. 2 mounted on cloth.		
Ditto City of Poona 300 feet to an inch, Rs. 1-4-0 or Rs. 2 mounted on cloth.		
Ditto Peint State 2 miles to an inch, Rs. 0-12-0 or Rs. 1 mounted on cloth.		
Ditto Roads in the Bombay Presidency 20 miles to an inch, Rs. 3-6-0 or Rs. 4 mounted on cloth.		

CHARLES WADDINGTON,
Major General, Chief Engineer,

Bombay, Chief Engineer's Office,
10th December 1855,

PUBLIC WORKS DEPARTMENT.

The Right Honorable the Governor in Council is pleased to publish the following STATEMENT, showing the WORKS OF PUBLIC UTILITY (whether of Construction or Repair) executed in the AHMEDNUGGUR COLLECTORATE, during the Year 1856, either wholly or partially at the Cost of PRIVATE INDIVIDUALS; and, in the latter case, showing the extent of Contributions from private sources :—

Districts.	Place where Constructed.	Description of the Works.	Cost of each Work, and the Proportions of Cost defrayed by Government and by Private Individuals respectively.			Names of Private Individuals who have either wholly or partially defrayed the Cost of each Work.
			Private Contributions.	Government Contributions.	Total Cost.	
			Rs. a. p.	Rs. a. p.	Rs. a. p.	
AHMEDNUGGUR.....	On the way from Hewre Bazar to Jamgaon.	A Well with steps	400 0 0	.....	400 0 0	Muhiputrow wulud Bimbajee, Pa-tell of Hewre Bazar.
	In the village of Bunpimpree	New Chowree	75 0 0	75 0 0	150 0 0	Inhabitants of Bunpimpree.
ANKOLA	In the town of Ankola	Repairs to a Road leading to the river..	8 9 0	17 7 0	26 0 0	Ditto of Ankola.
	In the village of Indooree	Repairs to an old Well	6 0 0	36 2 0	42 2 0	Ditto of Indooree.
	In the village of Agur.....	Dhurumsala	1,378 0 0	.....	1,378 0 0	Gunesh Rugoonath, Soucar of Ankola.
	In the village of Pissewaree	New Well	33 8 0	35 0 0	35 0 0	The Inhabitants of Pissewaree contributed Rs. 33-8-0 in labour.
	In the village of Dolusne	A Path leading to a well	16 4 0	28 12 0	45 0 0	Inhabitants of Dolusne.
	In the town of Kotool	Repairs to a Chowree.....	13 13 0	17 15 0	31 12 0	Ditto of Kotool.
	In the village of Munohurpoor....	New Chowree.....	57 6 6	50 0 0	50 0 0	The inhabitants of Munohurpoor contributed in labour.
KOARTEE	In the town of Kurjut.....	Two new Chowrees.....	150 0 0	150 0 0	300 0 0	Inhabitants of Kurjut.
	In the village of Adulgaon.....	New Chowree	102 6 0	92 14 9	195 4 9	Ditto of Adulgaon.
	In the village of Burudgaon	A Well.....	70 8 0	127 8 0	198 0 0	Ditto of Burudgaon.
	In the village of Soopa	New Chowree.....	23 8 0	61 0 0	84 8 0	Ditto of Soopa.
	In the village of Belwadee.....	New Chowree.....	17 0 0	33 0 0	50 0 0	Ditto of Belwadee.
	In the village of Ketoor	Chowree	60 2 0	93 14 0	154 0 0	Ditto of Ketoor.
	In the village of Sawree	Chowree	131 12 0	75 0 0	206 12 0	Ditto of Sawree.
	Out of the village of Rajooree	A Tank	139 0 0	111 0 0	250 0 0	Ditto of Rajooree.
	In the village of Rajooree	Chowree	40 0 0	10 12 7	50 12 7	Ditto ditto.
Carried over.... Rs.			2,722 12 6	1,015 5 4	3,647 3 4	

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Districts.	Place where Constructed.	Description of the Works.	Cost of each Work, and the Proportions of Cost defrayed by Government and by Private Individuals respectively.						Names of Private Individuals who have either wholly or partially defrayed the Cost of each Work.			
			Private Contributions.			Government Contributions.				Total Cost.		
			Rs.	a.	p.	Rs.	a.	p.		Rs.	a.	p.
		Brought over.. Rs.	2,722	12	6	1,015	5	4	3,647	3	4	
KOARTEE	In the village of Pomulwaree.....	Chowree	40	0	0	40	0	0	80	0	0	Inhabitants of Pomulwaree.
	In the village of Dulewaree	A Well	93	1	0	93	0	0	186	1	0	Shamrow Muccoond, Koolkurnee.
	In the village of Wurgaon.....	A Well	75	0	0	75	0	0	150	0	0	Inhabitants of Wurgaon.
NEWASSA	In the village of Gulnimb	Chowree	62	0	0	75	0	0	137	0	0	Inhabitants of Gulnimb.
	In the village of Nujeeck Baboolgaon.	Repairs to a Well with steps	55	0	0	20	0	0	75	0	0	Ditto of Nujeeck Baboolgaon.
	In the hamlet of Wuddale.....	New Chowree.....	38	0	0	44	8	0	82	8	0	Inhabitants of Wuddale.
	In the town of Sonace.....	Drinking water Fountain in the bed of the river at the village.	275	0	0	.....	.....	.....	275	0	0	Toolseram wulud Rutunchund, Marwaree of Sonace.
	Do. do. do.....	Repairs to the Trough of a Well	25	0	0	132	8	0	157	8	0	Inhabitants of Sonace.
	In the village of Khospooree	Repairs to a Chowree.....	88	4	0	110	12	0	199	0	0	Ditto of Khospooree.
PATODA	In the town of Yeola	Dhurumsala	1,000	0	0	.....	.....	.....	1,000	0	0	Roopchund wulud Ballaram, Guzerathee, of Yesla.
	In the town of Kopergaon	Ghaut, or flight of stones over the Godavery river.	200	0	0	.....	.....	.....	200	0	0	Sucarambhut bin Vishwanath Bhut Kelkur, of Kopergaon.
SHEOGAON	In the village of Khambgaon.....	Chowree	56	0	0	63	3	9	119	3	9	Inhabitants of Khambgaon.
KOWNAAE	In the village of Belgaon Koorhey.	A new Well.....	83	8	0	35	0	0	118	8	0	Inhabitants of Belgaon Koorhey.
		Total... Rupees	4,813	9	6	1,704	5	1	6,427	0	1	

By order of the Right Honorable the Governor in Council,

W. HART,
Secretary to Government.

Bombay Castle, 28th February 1857.

GENERAL DEPARTMENT.

The Right Honorable the Governor in Council is pleased to republish, for general information, the following PROCLAMATION issued by the Government of the Cape of Good Hope :—

PROCLAMATION

By His Excellency Sir GEORGE GREY, Knight Commander of the Most Honourable Order of the Bath, Governor and Commander in Chief of Her Majesty's Colony of the Cape of Good Hope in South Africa, and of the Territories and Dependencies thereof, and Vice-Admiral of the same, and Her Majesty's High Commissioner, &c. &c. &c.

Whereas by "The Passengers Act 1855," passed by the Imperial Parliament, it is amongst other things enacted, that it shall be lawful for the Governor of each of Her Majesty's Possessions abroad, by any Proclamation to be by him from time to time issued for that purpose (which shall take effect from the issuing thereof), to declare what shall be deemed, for the purposes of the said recited Act, to be the length of the voyage of any Ship carrying Passengers from such Possession to any other place whatsoever, and to prescribe such Scale of Diet, for the use of the Passengers during the voyage, as he shall think proper, and also to declare what Medicines, Medical Comforts, Medical Instruments, and other matters, shall be deemed necessary for the medical treatment of the Passengers during such "Colonial Voyage":

Now therefore, I, Sir GEORGE GREY, the Governor aforesaid; by this my Proclamation, issued for that purpose, do declare that the following shall be the rule of computation by which the length of the voyage of any Ship carrying Passengers from the Cape of Good Hope to the several places hereinafter named shall be computed for the purposes of the said recited Act; that is to say :—

From the Cape of Good Hope—

To Great Britain, France, or other parts of Europe	70 days.
Rio de Janeiro	35 "
East Coast of America	70 "
West Coast of America, Valparaiso	80 "
Do. do. Lima	95 "
Do. do. California	130 "
Mauritius or Bourbon	40 "
New South Wales	70 "
Van Dieman's Land	70 "
Port Phillip	70 "
South Australia	60 "
Western Australia	60 "
New Caledonia, New Hebrides, Feejee Islands, Society and Friendly Islands, or Tahiti	80 "
Sandwich Islands	100 "
New Zealand	70 "
Batavia or Singapore	60 "
Calcutta, Madras, or Bombay	65 "
Ceylon	60 "
Manilla	70 "
China	90 "

And I do further declare that the Master of every such Ship shall, during the voyage, including the time of detention at any place before the termination thereof, issue to each Passenger, or, where the Passengers are divided into Messes, to the Head Man for the time being of each Mess, on behalf and for the use of all the members thereof, an allowance of pure Water and sweet and wholesome Provisions, of good quality, according to the following Dietary Scale; that is to say, if the length of the voyage, computed as hereinbefore mentioned, shall not exceed eighty-four days for Ships propelled by Sails only, or fifty days for Ships propelled by Steam, or Steam in aid of Sails, then according to the Dietary Scale marked "A"; but if the length of the voyage, computed as aforesaid, shall exceed eighty-four days for Ships propelled by Sails only, or fifty days for Ships propelled by Steam, or Steam in aid of Sails, then according to the Dietary Scale marked "B."

WATER.

Three Imperial Quarts of Water daily to each Statute Adult, exclusive of the quantity necessary for cooking. The articles hereinafter required to be issued in a cooked state.

PROVISIONS.

Weekly, per Statute Adult.

Provisions.	Scale A, for Voyages not exceeding 84 days for Sailing Vessels, or 50 days for Steamers.		Scale B, for Voyages exceeding 84 days for Sailing Vessels, or 50 days for Steamers.	
	lbs.	oz.	lbs.	oz.
Bread or Biscuit, not inferior in quality to Navy Biscuit	3	8	3	8
Wheaten Flour	1	0	2	0
Oatmeal	1	8	1	0
Rice	1	8	0	8
Peas	1	8	1	8

Provisions.	Scale A, for Voyages not exceeding 84 days for Sailing Vessels, or 50 days for Steamers.		Scale B, for Voyages exceeding 84 days for Sailing Vessels, or 50 days for Steamers.	
	lbs.	oz.	lbs.	oz.
Potatoes.....	2	0	2	0
Beef.....	1	4	1	4
Pork.....	1	0	1	0
Tea.....	0	2	0	2
Sugar.....	1	0	1	0
Salt.....	0	2	0	2
Mustard.....	0	0½	0	0½
Black or White Pepper, ground.....	0	0½	0	0½
Limejuice.....	.....	.....	0	6
Preserved Meat.....	.....	.....	1	0
Suet.....	.....	.....	0	6
Raisins.....	.....	.....	0	8
Butter.....	.....	.....	0	4
Vinegar.....	One gill.		One gill.	

SUBSTITUTIONS.

Substitutions, at the following rates, may, at the option of the Master of any "Passenger Ship," be made in the above Dietary Scales; that is to say:—

1 lb. of Preserved Meat.....	for 1 lb. of Salt Pork or Beef.
1 lb. of Flour, or of Bread, or Biscuit, or } ½ lb. of Beef or of Pork.....	for 1½ lb. of Oatmeal, or 1 lb. of Rice, or 1 lb. of Peas.
1 lb. of Rice.....	for 1½ lb. of Oatmeal, or <i>vice versd.</i>
½ lb. of Preserved Potatoes.....	for 1 lb. of Potatoes.
10 oz. of Currants.....	for 8 oz. of Raisins.
3½ oz. of Cocon, or of Coffee, roasted and } ground.....	for 2 oz. of Tea.
¾ lb. of Treacle.....	for ½ lb. of Sugar.
1 gill of Mixed Pickles.....	for 1 gill of Vinegar.

And, lastly, I do hereby further declare that the Medicines, Medical Comforts, Medical Instruments and other matters necessary for the medical treatment during any such "Colonial Voyage," shall be as follows, namely:—

MEDICINES

For every One Hundred Statute Adults, and in like proportion for any greater or lesser number.

Medicines, &c.	When the length of the Voyage shall not be under 70 days.		When the length of the Voyage shall be under 70 days.		African Emigrants to the West Indies.	Observations.
	lbs.	oz.	lbs.	oz.	lbs. oz.	
Acacia.....						This put into bottles with glass stoppers, and packed in sand.
Contrit.....	1	8	1	0	1 0	
Acid. Acetic.....	0	8	0	4	.....	
Hydrochlor.....	0	2	0	1	0 1	
Nitric. Dilute.....	0	4	0	2	0 2	
Sulphuric. Aromat.....	0	4	0	2	0 4	
Tartar. Contr.....	0	10	0	8	0 4	
Aloes.....	0	1	0	0½		In a bottle with a glass stopper.
Alum.....	0	8	0	4	0 4	
Ammoniac Hydrochlor.....	0	8	0	4	.....	
Sesquicarb.....	0	2	0	2	.....	
Amyli.....	0	8	0	4	0 4	
Antimon. Potassio-Tartr.....	0	0½	0	0½	0 0½	
Argent Nitrat.....	0	0½	0	0½	0 0½	
Camphor.....	0	4	0	2	0 1	
Cerat. Calaminæ.....	1	0	0	8	0 8	
Resinæ.....	1	0	0	8	0 8	
Confect. Aromatic.....	0	2	0	2		
Scinæ.....	0	12	0	8	0 8	
Copaib.....	0	8	0	4	.....	
Cupri Sulph.....	0	1	0	1	0 2	
Emplastr. Cantharidis.....	0	8	0	8	0 8	
Resinæ.....	0	8	0	4	0 4	

Medicines, &c.	When the length of the Voyage shall not be under 70 days.		When the length of the Voyage shall be under 70 days.		African Emi- grants to the West Indies.		Observations.
	lbs.	oz.	lbs.	oz.	lbs.	oz.	
Extract Colchic. Acetic.....	0	0½	0	0½	0	0	
Colocynth. Comp.	0	4	0	2	0	2	
Conii	0	0½	0	0½	0	0	
Hyosiami	0	0½	0	0½	0	0	
Opii purif.	0	1	0	0½	0	0½	
Ferri Sulph.	0	2	0	1	0	0	
Hydrarg. Chlorid.	0	1	0	1	0	1	
Cum Cretæ	0	1	0	1	0	0	
Nitrico-Oxyd.	0	0½	0	0½	0	0½	
Ipecacuanhæ Contr.	0	4	0	4	0	4	
Jalapæ Contr.	0	8	0	4	0	4	
Liniment. Saponis	0	8	0	8	0	8	
Liquor. Ammonie	0	8	0	4	0	4	In a bottle with a glass stopper.
Plumbi Diacetat.	0	8	0	4	0	4	
Sodæ Chlorinat.	0	4	0	4	0	4	
Magnesie Carbon.	20	0	15	0	12	0	
Sulphat.	0	0½	0	0½	0	0	
Morph. Hydrochlor.	0	0½	0	0½	0	0½	
Ol. Menthæ Piperitæ	1	0	1	0	0	0	
Olivæ	6	0	4	0	4	0	
Ricini	0	8	0	8	0	8	
Terebinthinæ	0	0½	0	0½	0	0½	
Tiglii	0	0½	0	0½	0	0	
Opii Duri Contrit.	0	4	0	2	0	2	
Pilul. Hydrargyri	0	4	0	4	0	4	
Plumbi Acet.	1	0	1	0	1	0	
Potass. Bitartr. Contr.	0	8	0	8	0	8	
Nitrat.	0	2	0	1	0	0	
Potassii Iodid.	0	0½	0	0½	0	0	
Pulv. Antimonii Comp.	0	8	0	8	0	8	
Cretæ Prep.	0	1	0	1	0	0	
Cinnamomi Comp.	0	4	0	4	0	4	
Cretæ Comp. C. Opis.	0	4	0	4	0	4	
Ipecacuanhæ Comp.	0	8	0	8	0	8	
Quassie Concis	0	1	0	1	0	1	
Quinæ Disulph.	0	6	0	4	0	4	
Rhei Contrit.	0	0½	0	0½	0	0	
Scammon. Contrit.	1	0	1	0	1	0	
Sennæ	0	8	0	8	0	0	
Sodæ Potassio-Tart. Contr.	1	0	1	0	1	0	
Sesquicarb.	4	0	4	0	4	0	
Sulph.	0	8	0	8	0	8	
Spirit. Æther. Nitric.	0	4	0	4	0	4	In bottles with glass stoppers.
Sulph. C.	0	4	0	4	0	4	
Rectificat. Pints	0	0½	0	0½	0	0	
Sulphur.	2	0	2	0	2	0	
Tinct. Camphor. Comp.	0	4	0	4	0	4	
Catechu	0	4	0	4	0	4	
Digitalis	0	1	0	1	0	1	
Ferri Sesquichlor.	0	1	0	1	0	0	
Hyosiami	0	4	0	2	0	0	
Lavand. Comp.	0	2	0	2	0	2	
Myrrh.	0	2	0	2	0	2	
Opii	0	4	0	4	0	4	
Rhei Comp.	1	0	1	0	1	0	
Scillæ	0	2	0	2	0	0	
Sennæ Comp.	1	0	1	0	1	0	
Vin. Antim. Potassio-Tart.	0	4	0	4	0	4	
Colchici	0	2	0	2	0	0	
Ipecac.	0	2	0	2	0	0	
Ung. Cetacei	1	0	1	0	1	0	
Hydrarg. Fort.	0	8	0	8	0	8	
Nitrat.	0	2	0	2	0	2	
Sulphur. Comp.	1	0	1	0	1	0	
Zinci Sulph.	0	2	0	2	0	2	
Zingiber. Contrit.	0	0½	0	0½	0	0	
Secale Cornute.	0	1	0	1	0	0	
Spirit. Ammon. Aromat.	0	4	0	4	0	0	
Linseed Meal	5	0	4	0	3	0	
Bandages, Calico	No.	10	10	10	10	10	2½ ins. broad, and 6 yds. long.

Medicines, &c.	When the length of the Voyage shall not be under 70 days.	When the length of the Voyage shall be under 70 days.	African Emi- grants to the West Indies.	Observations.
Bandages, Flannel.	No. 6	6	6	3 ins. broad, and 6 yds. long.
Lint, Fine	oz. 8	8	8	
Do. 2nd.	lb. 1	1	1	} This quantity sufficient for the ship, whatever the number of Emigrants.
Surgeon's Tow.	4	2	2	
Skins of Leather	No. 1	1	1	
Old Linen Sheets	0½	0½	0½	
New Linen sp ^d . with Adh. Pl ^r	Yds. 4	4	4	
Ditto, Soap Cerate.	2	2	2	
Oiled Cloth	1	1	1	
Pins	Papers 1	1	1	
Grain Scales and Weights	Sets 1	1	1	
Ounce ditto and ditto	1	1	1	
Graduated Glass Measure.	No. 1	1	1	
Minim ditto	1	1	1	
Surgeon's Sponges	4	4	4	
Bolus Tile.	1	1	1	
Composition Mortar and Pestle	1	1	1	
Tin Panakins.	1	1	1	
Do. Funnels	1	1	1	
Pill Boxes	Papers 1	1	1	
Vials in Sorts	Doz. 3	3	3	
Gallipots in ditto	1	1	1	
Corks, Vial	Gross 0½	0½	0½	
Male Syringes, 1 oz. each.	No. 2	2	2	
Female ditto, 2 oz. do.	1	1	1	
Bolus Knife	1	1	1	
Scissors	Pairs 1	1	1	
Pott's Splints, complete	Sets 1	1	1	
Bleeding Porringer	No. 1	1	1	
Broad Tape for Bleeding	Pieces 1	1	1	
Enema Apparatus.	No. 1	1	1	
Steel Trusses.	2	2	2	
Bed Pan, Metal	1	1	1	
Tin Bath for Children	1	1	1	
Saucepans for use of Sick.	4	4	4	
Wrapping Paper for Medicines	Qrs. 1	1	1	
Thread for Ligatures.	Oz. 0½	0½	0½	
Chloride of Zinc, 15 pints for one hundred tons of the Ship's measurement, for fumigation, &c.	1	1	1	
If Chloride of Zinc cannot be obtained, an equivalent of Chloride of Lime to be put on board.				
Flannel for Fomentation	Yds. 4	4	4	

MEDICAL COMFORTS

To be put on board for every One Hundred Statute Adults embarked.

Articles.	Where the Voyage is computed at not less than 70 days.	Where the Voyage is computed at less than 70 days.
Port Wine, dozen.....	2	1½
Sherry Wine, do.....	1	1
Brandy, Cognac, do.....	1½	1
Porter, do.....	10	6
Tea, pounds.....	12	8
Sugar, do.....	60	50
Arrowroot, do.....	12	8
Oatmeal, do.....	50	36
Scotch Barley, do.....	40	30
Sago, do.....	50	30
Preserved Meat, do.....	70	50
Do. Milk, tins.....	50	50
Vinegar, gallons.....	5	5
Soap, pounds.....	50	50
Limejuice, do. { ½ oz. of each to be given daily, commencing 14 days }	200	200
Sugar for do. do. { after having been at Sea. }	150	150

LIST OF INSTRUMENTS

To be put on board Emigrant Vessels for the use of the Surgeon.

One Portable Case of Capital Instruments.

One Pocket Case of Instruments.

One Case of Lancets, of not less than four Lancets.

GOD SAVE THE QUEEN!

Given under the Public Seal of the Settlement of the Cape of Good Hope, this 7th day of November, 1856.

(Signed) G. GREY,
Governor.

By Command of His Excellency the Governor,

(Signed) RAWSON W. RAWSON,
Colonial Secretary.

By order of the Right Honorable the Governor in Council,

W. HART,
Secretary to Government.

Bombay Castle, 25th February 1857.

WEEKLY SUMMARY OF DEATHS ON THE ISLAND OF BOMBAY.

CASTE OR TRIBE.	Still-born.	Cholera.	Small-pox.	Measles.	Fever.	Disease of Nervous System.	Vascular System.	Respiratory System.	Alimentary System.	Urinary System.	Sexual System, and Child-bearing.	Locomotive & Tegumentary Systems.	Cachexy and Debility.	Leprosy, Tubercular and Articular.	Dropsy.	Accident and Violence.	Other and Unknown Cause.	Total—exclusive of Still-born.
Boodhist.—Jain, &c.	..	..	..	6	7	..	..	..	..	..	1	..	1	..	..	..	..	15
Brahmun.	..	1	..	2	3	..	..	..	2	..	..	..	..	..	..	..	..	8
Lingaet and Bhatia	..	..	..	1	3	1	..	1	..	..	..	..	..	..	..	..	..	6
Hindoo of other Caste	..	42	1	80	75	12	..	7	28	..	2	2	6	1	4	2	..	262
Hindoo Out-caste	..	1	..	5	15	..	..	..	5	..	..	..	2	..	..	..	..	28
Moosulman	..	5	4	27	51	2	..	2	13	..	..	..	2	..	..	..	..	106
Parsee	..	..	..	1	6	..	..	1	5	1	..	..	1	..	..	1	..	16
Jew	..	2	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	3
Native-Christian.	..	..	1	3	5	1	..	1	..	..	1	1	1	..	..	..	..	13
Indo-European	..	..	..	..	1	..	..	..	1	..	..	..	..	..	..	..	..	1
European.	..	..	..	..	..	..	..	..	1	..	..	..	..	..	1	..	..	2
Negro-African	..	..	..	..	2	..	..	1	..	..	..	..	..	..	..	..	..	3
Other and Unknown Caste	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Total.	..	51	6	126	167	17	..	13	54	1	3	3	13	1	5	3	..	463
Mean of the corresponding Weeks in the preceding Nine Years.	..	46	30	2	124	11	..	25	34	..	2	..	9	..	4	3	..	290

A. H. LEITH,

In charge of Mortuary Returns.

Bombay, 4th March 1857.

DIRECTIONS

FOR APPROACHING THE SAND HEADS
IN BOTH MONSOONS.

SOUTH-WEST MONSOON.

The South-West Monsoon may be considered to commence on the 15th March, on which date the Pilot Vessels take up their station near the buoy on the Pilot's Ridge as described below. The South-West Monsoon is over by the end of September.

2nd.—False Point Light House is in latitude $20^{\circ} 19\frac{1}{2}'$ north, and longitude $86^{\circ} 47'$ east; and a buoy is placed in $21\frac{1}{2}$ fathoms on the Pilot's Ridge, in latitude $20^{\circ} 49\frac{1}{2}'$ north, and longitude $87^{\circ} 42'$ east: the buoy therefore bears from False Point Light House north $59^{\circ} 49'$ east, true, and distant $59\frac{1}{2}$ miles.

3rd.—A vessel, therefore, after making the

Light House at False Point (in passing which she ought not to go into less than 10 fathoms) should bring it to bear about west-south-west 10 or 15 miles distant, when she will be in 11 or 12 fathoms; then steer east-north-eastward, when the soundings will gradually increase to 23 fathoms on the eastern edge of the Pilot's Ridge: she should then regulate her course so as to keep between the Ridge and 27 fathoms, when, by attention to the lead and nature of the soundings, course and distance run from the Light House, it is almost impossible to avoid making the Pilot Vessels, as their cruising ground is immediately to the north-east of the Light Vessel stationed during the South-West Monsoon in close proximity to the buoy on the Ridge.

4th.—The soundings to seaward of the Pilot's Ridge are, in general, a greenish or olive-coloured

5th.—Vessels approaching the station are earnestly warned to be careful in avoiding collision when communicating with either the Light, or supplying Pilot Vessels; and, on making the former at night, they are strongly recommended to heave to, at a proper distance, till day-light, by which measure they will avoid the probability of passing the supplying Pilot Vessels in the darkness of the night.

6th.—The Eastern Channel Light Vessel is in latitude $21^{\circ} 4'$ north, and longitude $84^{\circ} 14'$ east, and therefore bears from the buoy on the Pilot's Ridge north $63^{\circ} 26'$ east, true; and distant $32\frac{1}{2}$ miles. The Eastern Channel Light Vessel, from the 15th March to the 15th September, burns a blue light every half hour and a maroon every quarter hour during the night, commencing at 7 p. m.; and her standing light is a plain light.

7th.—Theilot's Ridge Light Vessel shows from the 15th March to the 15th September a plain standing light, and burns a blue light every hour, and a maroon at the intermediate half hours.

8th.—It is important to observe the difference as to the blue lights and maroons shown by the Eastern Channel and the Ridge Light respectively, as, if this is attended to, a vessel, out in her reckoning, or uncertain of her position, cannot possibly mistake one for the other.

9th.—This monsoon, which constitutes the fine season in the head of the Bay of Bengal, is considered to commence in October and end in the beginning of March. During this season the Pilot Station is about the Outer Floating Light situated in the Eastern Channel as above, and vessels coming in should make directly for that mark. The Pilot Vessels cruise in the day-time spreading east and west of, sometimes a little to the southward of, the Light Vessel; and at night anchor in positions not far from her. At this season she shows a maroon or torch-light every half hour and a blue light every hour.

Fort William, the 1st March 1856.

Notice is hereby given, that the BANK will be closed on Monday the 9th and Tuesday the 10th March, on account of the HOOLEE HOLIDAYS.

Bank of Bombay, 26th February 1857.

That the Hindoo Holidays called the POOLEE FESTIVAL commence on Sunday the 8th and end on Wednesday the 11th instant. There will be no transactions carried on at the General Treasury, General Pay Office, and Government Savings' Bank, on Monday, Tuesday, and Wednesday.

*Bombay Castle, General Treasury,
4th March 1857.*

Detail of Exports from 25th February to 3rd March 1857.

[illegible]

Actg. Depy. Commissioner of Customs, Salt, and Opium.

Bombay, Office of Commr. of Customs, Salt, and Opium, 4th March 1857.

MINT NOTICE.

The Mint Master, with the sanction of the Mint Committee, begs to notify, with reference to the Mint Notice issued by him on the 23rd of December 1856, that, on account of the recent and expected very large arrivals of London Bar Silver, such Silver will, pending further notice, be received at the Mint without being required to be premelted, and in every respect as such Silver was received prior to the 1st instant, provided the Touch, as per invoice, shall exceed the Standard Indian Touch for Silver, that is, shall exceed 91.66 per cent.

Coins will continue to be premelted as formerly, and premelting charges will be levied on such Bullion only as may actually be premelted.

J. H. BURKE, Captain,
Mint Master.

Bombay Mint, 24th January 1857.

અહિર નામુ.

એહું ને તારીખ ૨૩ મી માહે ડિસેમ્બર શને ૧૮૫૬ ને દિવસે મિંટ માસ્તરે અહિરનાંમુ પ્રગટ કર્યું છે તે ખાખત મિંટ કમિટિના હુકમથી મિંટ માસ્તર એહું અહિર કરે છે કે, લંડનના ચાંદીના લાક્ષ હાલ ધણા આપ્યા છે તથા ધણા આવવાના છે વાસ્તે બિચું અહિરનાંમુ પ્રગટ કર્યામાં આવે ત્યાંહાંમુથી સદ્દુ પ્રકારની ચાંદી પ્રથમ ગલાવીઆ શિવાય તથા ચાલતા મહિનાની પેહી તારીખની અગાઉ સદ્દુ પ્રકારની ચાંદી ને રીતે લેતા હતા તેમ ટકસાલમાં લેરો પણ ધનવો-ધસમાં ચાંદીનો ને ટક લખેલો હોય તે બ્રિટિશ ઇન્ડિઆના ઇન્વેલા ચાંદીના ટક કરતાં વધતો હોય એટલે રોકડે ૯૧.૬૬ થી વધતો હોય તોજ લેરો.

નાણું આગલ પ્રમાણે પ્રથમથી ગાલા કરશે અને ને ચાંદી ખરેખરી પ્રથમ ગાલશે તેનોજ માત્ર પ્રથમ ગાલવાનો અર્થ લેરો.

સહી.

વેનયેક હેનરી બકે કપતાન,
મિંટ માસ્તર.

તારીખ ૨૪ મી માહે જાનેવારી શને ૧૮૫૭ ઇસવી
મુકામ મુંબઈ ટેકસાલ.

VENAYEK WASSOODREW,
Oriental Translator to Govt.

Notice.

Whereas the FUZINDAREE ALLOWANCE of 12 FURAS of BATTY, in the Caranja Peta, of the Salsette Talook, formerly enjoyed by BHUWANJEE MOROJEE, has remained UNDRAWN since Bhuwanjee's decease in 1848-49; and whereas Soondra-bae, widow of Bhuwanjee Morojee, inhabitant of Bombay, has applied for the continuance of the said Allowance in her name, and has produced a Genealogical Tree in proof of her right to inherit the same: This is to give notice, that any person or persons laying claim to the Allowance, besides the abovenamed individual, must attend and produce proof before the Collector of Tanna within two months from this day, otherwise it will be paid to the abovenamed person.

E. C. JONES,
Tanna Collector's Office,
7th February 1857. Collector.

જાહિરનામા.

સર્વ લોકાંસ કઠાવેં કીં મ્હાનજી મોરોજી યાજ્ઞલ
ફજીનદારીચે નેમણુકે બદલ પેઢા કર્જે તાલુકે સાથી ઇથુન દર

સાલ.માત ફરે ૧૨ યાચા આકાર હોઈલ તો મિલત હોતા
મ્હાનજી હે સન ૧૮૪૮-૪૯ સારીં મયત ફાલે યાજ્ઞમુઝે
સન ૧૮૪૮-૪૯ પાસૂન નેમણુકીચા એવજ દેળે આહે તી
નેમણુક આમ્હી વારસ આહોં યાજ્ઞકરીતાં આમ્હાંસ મિઝાવો
મ્હણુન સુંદરા વાર્ડ કોમ મ્હાનજી મોરોજી વસ્તી મુંબઈ હિંણે
અજે કરૂન વંશાવલ વૈગેરે હાજીર કેલી આહે યાસ્તવ
સદરહૂ નેમણુકીવર વાર્ડે ઇજસિવાય કોળાચા વારસા અસેલ
તર ત્યાને આજ તારિખે પાસૂન દોન મહોન્યાચે આંત ઠાળ્યાચે
કલેકટર સાહેબ બાહાદુર યાંજકડે પુરાબ્યાસૂખો હાજીર
હોઝન જાહીર કરાવેં યાપ્રમાણે ન જ્ઞાન્યાસ હલોંચે અજેદાર
યાચે નાવેં નેમણુક ચાલવિલી જાર્દલ મગ કોળાચી તકાર
કાહીએક એકિલી જાણાર નાહીં.

સહી.

E. C. JONES,

કલેકટર

તારીખ ૭ વી માહે ફેબ્રુવારી સન ૧૮૫૭ ઇસવી.

Notice

Is hereby given, that sundry articles of STATIONERY, enumerated below, will be put up to SALE by PUBLIC AUCTION, at the Store Room in the basement of the Town Hall, on Saturday, the 7th March 1857, at 12 o'clock A. M. The Articles will be on view from the 5th March:—

Marble Paper.
Pounce.
Pounce Boxes.
Erasers.
Leads, flat.
Ebony Inkstands.
Chest ditto.
Spare Glasses for Ebony Inkstands.
Ditto ditto Chest ditto.

F. HUTCHINSON,

Collector of Bombay,

In charge Stationery Department.

Bombay, 26th February 1857.

અહિર નામુ.

એહું ને નીચે લખેલા કાગળ વિગેરે પરચુરણ સામાન તારીખ ૭ મી માહે માર્ચ સને ૧૮૫૭ રાનીવારને દિને ખાર વાગતે ઇનિનહાલમાંની નીચેની વખતમાં અહિર લિલાંમ કરી ને વેચવામાં આવશે.

સદ્દુ સામાન તારીખ ૫ મી માર્ચથી જોવાને લિલાંમ રહેશે.

મારખલ પેપર.

પોઇનશ.

પોઇનશની ખામ્સ.

ધરેબર.

લેડ.

અખનુશનાં લાકડાંની કલં મદાનો.

જરાતની પેટીની કલં દાનો.

અખનુશનાં લાકડાંની કલં દાનના ફાલતુ કાચના ખડીઆ.

જરાતની કલં દાનના ફાલતુ કાચના ખડીઆ.

સહી.

એફ. હાચીનસન,

મુંબઈનો કલેકટર, ઇન્ડિયન સ્ટેશનરી ડિપાર્ટમેંટ.

તારીખ ૨૬ મી માહે ફેબ્રુવારી શને ૧૮૫૭

ઇસવી મુકામ મુંબઈ.

जाहिरनामा.

ऐसा जे खाली लिहिलेले कागद वगैरे किरकोळ सामान तारीख ७ माहे मार्च सन १८५७ शनवारचे रोजी बारा वाजता टीन हालचे खालचे वखारीत जाहिर लेलांव करून विकलें जाईल.

सदई सामान तारीख ५ मार्च पासून पाहावयास खुलें राहील.

मार्बल पेपर.

पौनस.

पौनसाची बाक्स.

इरेजर.

लेड.

अवनस लांकडाची कलमदाने.

जस्ती पेट्यांची कलमदाने.

अवनस लांकडाचे कलमदानाच्या फालतु कांचेच्या दैती.

जस्ती कलमदानाच्या फालतु कांचेच्या दैती.

सही.

एफ. हचीनसन,

मुंबईचे कलेक्टर, इंचार्ज स्टेशनेरी डिपार्टमेंट.

तारीख २६ वा माहे फेब्रुवारी सन १८५७ इसवी

मुकाम मुंबई.

VENAYEK WASSOODEW,
Oriental Translator to Govt.

Notice.

It is hereby notified, that the undermentioned RATES will be paid for SALT shipped after this Notification, on delivery, at the different Ports of the Malabar District respectively:—

Per Garco of 120
Indian Maunds.

At Cannanore	Rs. 30 0 0
Tellicherry	„ 30 0 0
Calicut	„ 30 0 0
Chowghat	„ 31 0 0
Cochin	„ 31 0 0

E. L. JENKINS,

Acting Deputy Commissioner of Customs,
Salt, and Opium, P. D., in charge.

Bombay, Office of Commissioner of Customs,
Salt, and Opium, 2nd March 1857.

अह्तेरनामु.

अहेतुं ले आ अह्तेरनामु छापा पछीं ले मीहुं वाहांशुडपर यहावरो ते मीहुं मलयार ज्हाला ज्युदा ज्युदा अह्तेरनामु आपाथी तेनो अवेन नीये लजेला भाव प्रभाये आपरो.

कांनानोरमां १२० अंगाली मयुना दर गारसना ३०

तालचेरीमां अवन. अवन. ३०

कालीकोटमां अवन. अवन. ३०

चौघाटमां अवन. अवन. ३१

कोचीनमां अवन. अवन. ३१

सही.

एडवर्ड लेटन जेकींस,

जकात तथा मीठ तथा अफीणीचे आर्किंग डेपुटी कमिशनर.

प्रेसिडेन्सी डिविजन इंचार्ज.

तारीख २७ माहे मार्च राने १८५७ इसवी मुकाम

मुंबई जकात तथा मीठ तथा अफीणीचे कमिशनर.

नरनी कुचेरी.

जाहिरनामा.

ऐसा जे हा जाहिरनामा छापल्या नंतर जें मीठ गलबतावर चढेल तें मलबार जिल्ह्याचे निरनिराळे बंदरांत पांचवें केल्यावर त्याचा ऐवज खाली लिहिलेले दराप्रमाणे देतील.

कांनानोर एथें १२० बंगाली मणाचे दर गारसना रुपये ३०

तालचेरी एथें किता. किता. ३०

कालीकोट एथें किता. किता. ३०

चौघाट एथें किता. किता. ३१

कोचीन एथें किता. किता. ३१

सही.

एडवर्ड लेटन जेकींस,

जकात व मीठ व अफीणीचे आर्किंग डेपुटी कमिशनर

प्रेसिडेन्सी डिविजन इंचार्ज.

तारीख २ री माहे मार्च सन १८५७ इसवी

मुकाम मुंबई जकात व मीठ व अफीणीचे

कमिशनरची कचेरी.

VENAYEK WASSOODEW,
Oriental Translator to Govt.

BANK OF BOMBAY.

DISCOUNT.

On Government Bills	8 per cent.
On Private Bills at or within 3 Months	10 ditto.

INTEREST.

On Fixed Loans on Government Notes and Railway Shares ..	8 per cent.
On Open Loans on ditto	9 ditto.
On Cash Credit Accounts	9 ditto.
On Loans on Security of Goods ..	10 ditto.

Bills payable within one month are discounted under the above rate, and Discount at 3 per cent. under the rate charged will be refunded on all Bills paid before maturity, for the unexpired portion of the time such Bills may have to run.

The Rate of Advance on deposit of 5 per Cent. Government Notes is 95 per cent., on 4 per Cent. Notes 75 per cent., on Railway Shares *three-fourths* the paid-up value of the Shares, and on Goods *three-fourths* the approved value.

Loans on Goods, &c.

Advances are granted on the security of Goods not of a perishable nature, deposited in private Godowns situated either in the Fort, or in Grant Buildings, Colaba.

Government Agency.

The Bank undertakes the safe custody of Government Securities, Bank Shares, and other Indian Stock Certificates; also the purchase or sale of the same, and realises the Interest and Dividends as they become due; and is also authorised to transact the business hitherto carried on by the Government Agents for the public Creditors of Government and others, and to remit the interest, dividends, and principal by *Bills of Exchange payable in England* to Constituents, Shareholders, and others, whether resident in Europe or elsewhere.

By order of the Board of Directors,

JOHN STUART,

Secretary and Treasurer.

Bank of Bombay, 18th December 1856.

General Orders.

MILITARY DEPARTMENT.

BY THE RIGHT HONORABLE THE GOVERNOR IN COUNCIL.

Bombay Castle, 26th February 1857.

No. 233 of 1857.—Lieutenant T. R. Teschemaker, of the Regiment of Artillery, is permitted to proceed to Sea and New South Wales, with leave of absence for two years, on medical certificate, under the Old Furlough Regulations.

No. 234 of 1857.—Assistant Surgeon H. P. Lawrence is allowed a furlough to Europe, on medical certificate, for three years, under the Old Furlough Regulations.

Bombay Castle, 27th February 1857.

No. 235 of 1857.—The Right Honorable the Governor in Council is pleased to republish the following General Order by the Right Honorable the Governor General of India in Council, dated Fort William, 10th February 1857, No. 228:—

“The Right Honorable the Governor General of India in Council is pleased to cancel the Government General Order No. 1205, of the 23rd November 1855, which authorises an advance of Passage Money to Officers of Her Majesty's Service when promoted, or transferred on public grounds from a Regiment in India to one on the Home Establishment, and to notify, under instructions from the Home Authorities, that, under the limitation specified in the Contract, passages for Officers of Her Majesty's Service who have no claim to be conveyed at the cost of the Government of India, but are entitled to a passage at the Public expense, under the War Office Regulations, ‘will be ordered by the Senior Naval Officers on the several Stations, or by the Admiralty Agents on board the Packets (of the Peninsular and Oriental Steam Navigation Company), on application for the purpose being made by the Military Commanding Officer.’

In all such cases ‘it should be left entirely to the Naval Department to arrange the payment for the passage.’

Officers entitled to passage under the above Rules must apply to the Chief Staff Officer of Her Majesty's Troops at the Presidency, who will, under orders of the Commander in Chief, make the necessary application to the Senior Officer of the Royal Navy, or to the Admiralty Agent, as the case may be.

This Order is applicable to the three Presidencies.

(Signed) R. J. H. BIRCH, Colonel,
Secretary to the Govt. of India in the Military Department.”

Bombay Castle, 28th February 1857.

No. 236 of 1857.—The following Gentlemen are admitted to the Service, in conformity with their appointments by the Honorable the Court of Directors, as Cadets of Infantry on this Establishment:—

<i>Infantry.</i>	<i>Date of Arrival at Bombay.</i>
No. 825, Mr. Alexander William Bradfield Caldecott.....	} 20th February 1857.
No. 862, Mr. Wedderburn Hannah Mackenzie	
No. 877, Mr. Frederick Bowker.	

The undermentioned Officers have returned to their duty, without prejudice to their rank, by permission of the Honorable the Court of Directors:—

	<i>Date of Arrival at Bombay.</i>
Captain H. Bruce, 2nd European Regiment Light Infantry, Commanding 5th Punjab Cavalry	} 20th February 1857.
Lieutenant P. D. Marett, Regiment of Artillery.....	

No. 237 of 1857.—Captain W. F. Marriott, of the Engineers, is permitted to return to his duty, without prejudice to his rank, from the date of his arrival from furlough, the 20th February.

No. 238 of 1857.—Second Corporal G. Dibble, of the Corps of Sappers and Miners, is transferred to the Town Major's Non-Effective List, for employment in the Department of Public Works, from the 21st January 1857.

No. 239 of 1857.—The following alterations of rank and promotions are made:—

ORDNANCE DEPARTMENT.

Alterations of Rank.

Rank.	Names.	To rank from	In whose room.
Conductor	G. Hazelgrove.....	1st October 1855	Poyntz, pensioned.
Sub-Conductor....	E. Sweeting.....		Thomson, deceased.
Sub-Conductor....	H. Penrose	11th November 1855 ..	Chatham, promoted.
Conductor	M. Rourke (reduced).....	8th January 1856	Fennie, pensioned.
Sub-Conductor....	J. McDonald	12th January 1856	McCarthy, deceased.
Sub-Conductor....	J. Spooner	3rd March 1856	Burrowes, deceased.
Sub-Conductor....	G. Isaac	29th April 1856	To complete the additional Establishment sanctioned for the Aden Arsenal. Do. for the Kurrachee Arsenal.
Conductor	W. Foxley (deceased).....	31st May 1856	
Sub-Conductor....	J. Cruise	14th July 1856	
Conductor	A. McDowell	14th September 1856 ..	
Sub-Conductor....	W. H. West	6th October 1856	Lake, pensioned.
Sub-Conductor....	J. Farrell		Foxley, deceased.
Sub-Conductor....	E. Seymour		
Conductor	D. Connell		
Sub-Conductor....	A. Uffendell.....		
Conductor	J. Furlong		

Promotions.

Store and Park Serjeant (Acting Sub-Conductor) G. Allen to be Sub-Conductor, from 6th October 1856, vice Furlong, promoted.

Sub-Conductor (Acting Conductor) W. Lindfield to be Conductor, from the 7th October 1856, subject to the production of the Certificate required by G. G. O. No. 492, dated 4th June 1856, vice Rourke, reduced.

No. 240 of 1857.—The following General Order, No. 701, dated Fort William, Foreign Department, 7th February 1857, is published :—

“The Governor General in Council is pleased to accept the resignation by Captain G. W. Battye of his appointment as Assistant to the Resident at Baroda. His services are accordingly placed at the disposal of the Government of Bombay.”

No. 241 of 1857.—The services of Assistant Surgeon H. Cotes are temporarily placed at the disposal of the Government of India, for employment in medical charge of the Agency and Civil Station of Neemuch.

No. 242 of 1857.—The following temporary appointment is made :—

Surgeon J. J. Faithful, of the 6th Regt. N. I., to act as Deputy Medical Storekeeper and Staff Surgeon at Belgaum, during such time as Surgeon Waller may be Acting Superintending Surgeon.

Bombay Castle, 2nd March 1857.

No. 243 of 1857.—The services of Captain H. Bruce, 2nd Regiment European Light Infantry, Commandant of the 5th Regiment Punjab Cavalry, have been placed, by the Government of India, temporarily at the disposal of this Government, for employment in Persia.

Bombay Castle, 3rd March 1857.

No. 244 of 1857.—Assistant Surgeon R. G. Lord, M.D., has been confirmed in the appointment of Civil Surgeon in Kattywar.

No. 245 of 1857.—Assistant Surgeon Beatty, Superintendent of Vaccination Northern Deccan Division, has been granted leave of absence for twenty days, under the New Furlough Regulations, from the 8th February 1857.

No. 246 of 1857.—The following appointment is made :—

Captain (Brevet Major) F. J. Carruthers, of the 2nd Regiment Madras Light Cavalry, to officiate as Line Adjutant at Sholapore, in succession to Neale, who reverts to Regimental duty, and during the absence of Lieutenant Ord on Field Service.

Bombay Castle, 4th March 1857.

No. 247 of 1857.—Lieutenant E. Innes, of the 22nd Regt. N. I., is allowed a furlough to Europe, on medical certificate, for eighteen months, under the New Furlough Regulations.

No. 248 of 1857.—The following promotion is made :—

3rd Regiment N. I.

Ensign H. M. B. Sandwith to be Lieutenant, from the 25th February 1857, vice Lieutenant O. Probyn, invalided.

No. 249 of 1857.—The following postings are made, to fill vacancies :—

Rank and Names.	Regimental Rank.	To what Corps posted.
Second Lieutenant Frederick Colvin Mytton.	9th Dec. 1854....	Corps of Engineers.
Cornet William Mills	20th Dec. 1856....	1st Regiment Light Cavalry (Lancers), as 4th Cornet.

No. 250 of 1857.—The following appointments are made, during such time as the Southern Muratha Irregular Horse may be on Foreign Service :—

Lieutenant W. A. Kerr, Adjutant, to be Second in Command, and Lieutenant H. Moore to be Adjutant to the Service Troops.

No. 251 of 1857.—Lieutenant Colonel W. Anderson, of the 59th Regt. Bengal N. I., Commandant Joudpoor Legion, is allowed a furlough to Europe, on medical certificate, for fifteen months, under the New Furlough Regulations.

No. 252 of 1857.—The undermentioned Documents will be forwarded to the Honorable the Court of Directors by the next Overland Mail :—

1st.—General Roll, for the Quarter ending 31st January 1857, of Family Remittances of Commissioned Officers of Her Majesty's Forces serving under this Presidency, from the 78th Highlanders.

2nd.—General Roll, for the Quarter ending 31st January 1857, of Family Remittances of Non-Commissioned Officers and Soldiers in Her Majesty's Forces serving under this Presidency, from the 78th Highlanders, 83rd and 86th Regiments of Foot.

3rd.—General Roll, for the Quarter ending 31st January 1857, of Effects and Credits of deceased Commissioned Officers in Her Majesty's Forces serving under this Presidency, 83rd Regiment of Foot.

4th.—General Roll of Effects and Credits of deceased Non-Commissioned Officers and Soldiers of Her Majesty's 78th Highlanders, 83rd and 86th Regiments of Foot.

5th.—General Roll, for the Quarter ending 31st January 1857, of Remittances on account of Regimental Necessaries of Her Majesty's Regiments serving under this Presidency, 78th Highlanders and 83rd Regiment of Foot.

6th.—General Roll, for the Quarter ending 31st January 1857, of Remittances of Commissioned and Warrant Officers of the Honorable Company's Service.

7th.—General Roll, for the Quarter ending 31st January 1857, of Remittances of Non-Commissioned Officers and Privates of the Honorable Company's Regiments.

No. 253 of 1857.—Mr. Alfred William Ducat is admitted to the Service, in conformity with his appointment by the Honorable the Court of Directors, as a Cadet of Infantry on this Establishment. Date of arrival at Bombay 11th January 1857.

By order of the Right Honorable the Governor in Council,
P. M. MELVILL, Colonel,
Secretary to Government.

M A R I N E D E P A R T M E N T.

Bombay Castle, 26th February 1857.

No. 41 of 1857.—Mr. Waterston, Naval Instructor, is permitted to retire from the Service on the 1st March next.

Lieutenant P. W. Mitchison, I. N., is appointed to act as Naval Instructor, pending the pleasure of the Honorable the Court of Directors, or until further orders.

Bombay Castle, 27th February 1857.

No. 42 of 1857.—The following temporary arrangements and appointments are confirmed :—

By Rear Admiral Sir H. J. Leeke, K.H., R. N., Commander in Chief of the Indian Navy.

Mr. E. Butt, Mate, of the "Victoria," sick, to reside on shore, at the Sanitarium, for the benefit of his health, from the 3rd February 1857.

Persian Gulf Squadron Orders.

On the requisition of the Political Agent in Turkish Arabia, the undermentioned Public Functionaries, proceeding on duty, were accommodated on board the "Comet," as follows :—

Captain A. B. Kemball, Political Agent in Turkish Arabia, from Bagdad to Busra and back, at the Commander's Mess, from 18th November to 6th December 1856.

Major Taylor, attached to the Suite of the Honorable Mr. Murray, H. B. M. Envoy at the Court of the Shah of Persia, from Bagdad *en route* to Bushire, at the Commander's Mess, from 18th to 23rd November 1856.

Mr. M. Menes, Dragoman of the British Residency at Bagdad, from Bagdad to Busra and back, at the Officers' Mess, from 18th November to 6th December 1856.

Assistant Surgeon Ticehurst, of the "Clive," to take charge of the Bassadore Hospital from the 20th December 1856, vice Assistant Surgeon Asher, transferred to the "Falkland."

Acting Lieutenant Lakes, Transport Agent, to be transferred from the "Euxine" to the "Avalanche," and accommodated on board the latter vessel, from the 7th January 1857.

Mahomed Sadick Khan, Persian Consul, to be accommodated on board the "Hugh Lindsay," from the 12th January 1857.

Acting Lieutenant Trollop, of the "Ajdaha," to be Acting Lieutenant of the "Euphrates," to complete her complement, from the 27th December 1856.

Assistant Surgeon Johnstone, of the "Victoria," to assume charge of the Bassadore Naval Hospital, from 4th July to the 4th September 1856, vice Assistant Surgeon Niven.

No. 43 of 1857.—The undermentioned Volunteers, for the Indian Navy, have arrived from England on the 21st instant :—

Mr. Arthur Henry Taylor Parker.
Mr. Henry Eric Sutherland Hannay.
Mr. Walter Cuthell.

Mr. Roger B. Leefe, Mate, returned to his duty on the 21st instant, by the steamer "Aden," with the permission of the Honorable the Court of Directors.

Bombay Castle, 28th February 1857.

No. 44 of 1857.—The Honorable the Court of Directors have granted the undermentioned Officers extensions of leave for the recovery of their health :—

Mr. R. B. Leefe, Mate, for three months.
Mr. B. Bardin, Midshipman, for six months.
Mr. J. R. Mignon, Purser, for six months.

The undermentioned Officers have been permitted by the Honorable the Court of Directors to retire from the Service, viz :—

Lieutenant E. Delpratt, from 1st December 1856.
Mr. R. W. Taynton, Purser, from 15th September 1856.

No. 45 of 1857.—An Order by the Officer Commanding the Indus Flotilla, dated the 1st of September 1855, appointing Mr. C. Daniell, Captain's Clerk of the Euphrates, to be Clerk in charge of that vessel, is confirmed.

Bombay Castle, 4th March 1857.

No. 46 of 1857.—The following temporary arrangements and appointments are confirmed :—

By Rear Admiral Sir H. J. Leeke, K.H., R. N., Commander in Chief of the Indian Navy.

1. Acting Lieutenant H. C. Carey, of the "Assaye," to be Agent for Transports, from the 5th February 1857, and to proceed in the Ship "Clontarf."

2. Mr. R. Bennett, Purser, of the "Ajdaah," to act as Chief Clerk in the Civil Branch, and Clerk of the Check, Commander in Chief's Office, from the 7th February 1857, vice Mr. Beyts.

3. Mr. L. Wilson, Purser, Supernumerary of the "Acbar," to the "Ajdaah," from the 10th February 1857, vice Mr. Bennett.

4. Mr. J. B. Bewsher, Mate, of the "Ajdaah," to be Acting Lieutenant of that vessel, from the 11th February 1857, to complete her complement.

5. The Officers below named to reside on shore for the benefit of their health :—

Assistant Surgeon Silver, "Tigris"..... Out of the Sanitarium, on the 10th February 1857.

Mr. Connolly, Purser, of the "Coromandel." Out of the Sanitarium, on the 6th February 1857.

6. With reference to Government General Order of the 2nd January 1857, No. 2, Commander Grieve, Indian Navy, was relieved from Survey duty from the 27th of the same month, the date of the receipt by him of the above Order.

No. 47 of 1857.—Mr. R. C. Jackson, Captain's Clerk, is allowed a furlough to Europe, on medical certificate, for fifteen months, under the New Furlough Regulations.

No. 48 of 1857.—Mr. David John George Morison, having produced the prescribed certificates of qualification, is admitted to the Service from the 16th February last, as a Volunteer for the Indian Navy, in conformity with his appointment by the Honorable the Court of Directors.

No. 49 of 1857.—The following temporary arrangements and appointments are confirmed :—

By Rear Admiral Sir H. J. Leeke, K.H., R. N., Commander in Chief of the Indian Navy.

Mr. McLaren to be Acting Master, and to take charge of the Steam-vessel "Napier," from the 22nd January 1857.

Lieutenant Peevor, of the "Queen," and Acting Lieutenant Clark, of the "Assaye," to be Agents for Transports, from the 24th January 1857.

Lieutenant Giles, Indian Navy, Port Officer of Kurrachee, proceeding to join that Station, to be accommodated on board the Ship "Owen Glendower," on the 24th January 1857.

Mr. Georges, Midshipman, of the "Queen," to be Agent for Transports on the ship "Carmenta," from the 27th January 1857.

Mr. C. S. Carey is appointed 2nd Class 2nd Master of the "Napier," from the 30th January 1857.

Lieutenant Adams, Second in Command of the "Assaye," to take charge of that vessel on the 19th January 1857, vice Captain Jenkins.

Mr. R. Jackson, Captain's Clerk, Supernumerary of the "Acbar," sick, to reside on shore at the Sanitarium, for the benefit of his health, from the 28th January 1857.

Persian Gulf Squadron Orders.

At his own request, Commander Jones, I. N., Political Resident at Bushire, and his Suite, as per margin, proceeding on duty from Bushire to meet the Major General Commander in Chief of the Persian Field Force, to be accommodated on board the "Ferooz," at the Commander's Mess, from 30th November to 10th December 1856.

At the request of the Resident in the Persian Gulf, Major Taylor, Interpreter to His Excellency the Envoy in Persia, proceeding on duty from Bushire to meet the Major General Commander in Chief of the Persian Field Force, to be accommodated on board the "Ferooz," at the Commander's Mess, from 30th November to 10th December 1856.

Burmah Squadron Order.

Mr. Plunkett, Midshipman, of the "Zenobia," sick, to reside on shore at Calcutta, for the benefit of his health, from 25th June to 8th July 1856.

By order of the Right Honorable the Governor in Council,

P. M. MELVILL, Colonel,

Secretary to Government.

Civil Appointments, &c.

JUDICIAL DEPARTMENT.

Bombay Castle, 26th February 1857.

Lieutenant Thomas received charge of the Office of Superintendent of Police, Dharwar, from Major Cormack, on the 4th instant.

Bombay Castle, 4th March 1857.

Lieutenant J. Harpur assumed charge of the Office of Acting Superintendent of Police at Rutnagherry on the 10th ultimo.

Mr. H. E. Leeke assumed charge of the Office of Acting Assistant Superintendent of Police at Tanna, on the 19th ultimo.

The leave of absence granted to Mr. C. Walter, Senior Assistant Judge and Session Judge of Kaira, under date the 2nd ultimo, is to have effect from the 14th ultimo.

By order of the Right Honorable the Governor in Council,

H. L. ANDERSON, *Secretary to Government.*

TERRITORIAL DEPARTMENT,

REVENUE.

Bombay Castle, 2nd March 1857.

Mr. F. S. Chapman, First Assistant to the Collector and Magistrate of Ahmednuggur, has been allowed an extension, for two days, of the leave of absence granted to him under date the 27th January last.

Mr. D. Davidson, Collector of Poona, is allowed leave of absence for three months, on private affairs, under Section XII. of the Civil Absentee Rules.

Mr. J. Beatty, Assistant Collector for Canals in the Hyderabad Collectorate, has been granted leave of absence to proceed to Bombay, on medical certificate, from the 1st September to the 30th November 1856, under Section V. of the Uncovenanted Service Absentee Rules.

Lieutenant T. Waddington, Assistant Superintendent in Charge Revenue Survey, Rutnagherry, has been granted privilege leave of absence, under the New Furlough Regulations, from the 11th March to the 11th April 1857.

Bombay Castle, 4th March 1857.

Mr. G. B. Seton Karr, Collector of Belgaum, has been allowed to remain in the Districts of that Collectorate, from the 1st March until the setting in of the monsoon, on general duty.

The unexpired portion of the leave of absence for three months granted to Mr. G. Scott, First Assistant Collector and Magistrate of Rutnagherry, under date the 6th December 1856, is cancelled from the 21st January 1857, the date on which he resumed charge of his duties.

The following re-distribution has been made of the Charges of the Assistants and of the District Deputy Collector in the Belgaum Collectorate :—

The Second Assistant Collector to have charge of the Talookas of Beedee, Sumpgaum, and Pursghur.

The Third Assistant Collector to have charge of the Talooka of Chikodee.

The District Deputy Collector to have charge of the Talookas of Uthnee and Gokak, and, pending the appointment of a Third Assistant Collector, to have temporary charge of the Chikodee Talooka.

Captain R. M. Johnstone, Deputy Collector of Jerruck, and Mr. Dadabhoj Pallunjee, Head Accountant in the Office of the Collector of Kurrachee, performed, in addition to their own, the duties of Deputy Collector in charge of the Treasury at Kurrachee, the former from the 29th September to the 24th October, and the latter from the 24th October to the 17th November 1856.

By order of the Right Honorable the Governor in Council,

H. YOUNG, *Offg. Chief Secretary.*

GENERAL DEPARTMENT.

Bombay Castle, 2nd March 1857.

The following Gentlemen have been appointed by the Honorable the Court of Directors Members of the Civil Service on the Bombay Establishment :—

Mr. Herbert Edward Jacomb.

Mr. Charles Mageins Hogg.

Mr. William Roger Pratt.

Mr. Thomas Monck Mason.

Mr. John Hay Grant.

Mr. Alan Arthur Clarke Jervoise.

Bombay Castle, 3rd March 1857.

Rao Saheb Ramchundra Dinanath, Deputy Inspector of Schools in the Rutnagherry Collectorate, has been allowed leave of absence for one month, from the 15th January 1857, under Section VI. of the Uncovenanted Absentee Rules.

Bombay Castle, 4th March 1857.

Assistant Surgeon Beatty, Superintendent of Vaccination Northern Deccan Division, has been allowed privilege leave for twenty days, from the 8th February 1857, under the New Furlough Regulations.

Acting Assistant Apothecary Ellapa Lingoo is appointed to the Civil Medical duties at Larkhana, in Sind, vice French, promoted.

Assistant Surgeon G. R. Nuttall received charge of the duties of Civil Surgeon at Belgaum from Surgeon Waller on the 20th February 1857.

The Right Honorable the Governor in Council is pleased to make the following appointments, as Probationary, until the close of the season of 1857 :—

Mohunlal Runchordass, Officiating Deputy Inspector of Schools, Southern Sub-Division, to be Deputy Inspector of Schools in the Surat Sub-Division.

Dowlutram Otumram, Tutor to the Thakoor of Chooda, to be Deputy Inspector of Schools in the Broach Sub-Division.

Muggunlal Wukkutchund, Assistant Master in the Ahmedabad English School, to be Deputy Inspector of Schools in the Kaira Sub-Division.

Rao Saheb Pranlal Mathooradass, Deputy Inspector Northern Sub-Division, to be Deputy Inspector of Schools in the Dholka Sub-Division.

Jevanram Jayannund to be Deputy Inspector of Schools in the Gogo Sub-Division.

Mr. T. C. Hope, Educational Inspector, Guzerat Division, is appointed a Municipal Commissioner for the Towns of Dholka, Dhundooka, Dholera, Rampoor, Gogo, Veerungaum, and Purantej, in the Ahmedabad Collectorate.

PUBLIC WORKS DEPARTMENT.

Bombay Castle, 4th March 1857.

With reference to the Government General Order in the Military Department No. 238, of the 28th February 1857, Second Corporal G. Dibble, of the Corps of Sappers and Miners, is appointed a Supernumerary Assistant Overseer in the Department of Public Works, from the 21st January 1857.

Lieutenant W. D'Arcy Jopp, Assistant Executive Engineer Canal Department, Sind, has been allowed leave of absence, on medical certificate, from the 5th January to 1st April 1857.

ECCLESIASTICAL DEPARTMENT.

Bombay Castle, 2nd March 1857.

The Reverend E. N. Dickinson, Chaplain of Sattara, is allowed leave of absence for one month, on medical certificate, from the 9th February 1857.

Bombay Castle, 4th March 1857.

Assistant Surgeon F. W. Harris, Civil Surgeon of Hyderabad in Sind, is appointed Registrar of Marriages for that Collectorate.

The Chaplain of Malcom Peth will visit Sattara once a month, during the absence of the Chaplain of the latter Station on medical certificate, or until further orders.

By order of the Right Honorable the Governor in Council,

W. HART, Secretary to Government.

SUDDER DEWANEE ADAWLUT.

The Judges of the Sudder Dewanee Adawlut have made the following appointment :—
Azim Sudasheo Bullal to be Extra Moonsiff in the Ahmednuggur Zillah.

By order of the Sudder Dewanee Adawlut,

Bombay, Sudder Dewanee Adawlut, 26th February 1857.

M. A. COXON, Registrar.

TERRITORIAL DEPARTMENT,
REVENUE.

The Right Honorable the Governor in Council is pleased to publish the subjoined communication from the Government of India, for the information and guidance of all Officers and Departments concerned :—

No. 583.

Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Financial Department, under date the 30th January 1857.

Read an extract from the proceedings of this Government in the Home Department, No. 31, dated the 12th instant, forwarding, with remarks, for further consideration and orders, a letter from the Government of Bombay, requesting permission to adopt, in that Presidency, the practice in force in the N. W. Provinces and in the Punjab, of commuting pensions and other allowances to a limited extent.

RESOLUTION.—The Right Honorable the Governor General in Council observes that life pensions not exceeding Rupees 12 and 20 per annum are purchased by Government, with the consent of the Pensioners, in the N. W. Provinces and in the Punjab respectively, by a present consolidated payment, calculated according to the scale shown below :—

Agra Civil Auditor's Manual for 1853, page 100.—Value of a Life Annuity of 1 Rupee per annum :—

Age.	Value.	Age.	Value.
Under 10	Rs. 13	45 to 50	Rs. 9½
10 to 20	" 12½	50 to 55	" 9
20 to 25	" 12	55 to 60	" 8
25 to 30	" 11½	60 to 65	" 7
30 to 35	" 11	65 to 70	" 6
35 to 40	" 10½	Above 70	" 5
40 to 45	" 10		

It being very desirable to commute these petty annual payments, the Governor General in Council

is pleased to rule, with reference to the limitation of purchaseable pensions, that the larger limit of 20 Rupees per annum shall apply to all cases of life pensions payable by Government under all the Presidencies and Administrations in India.

ORDER.—Ordered, that a copy of the above Resolution be sent to the Home Department, for communication to the Government of Bombay.

Ordered also, that a copy of the above Resolution be sent to the Department,* Government,† and Officers‡ specified in the margin.

Ordered further, that the above Resolution be published in the Calcutta official Gazette for general information.

(True extract)

(Signed) C. H. LUSHINGTON,
Secretary to the Government of India.

By order of the Right Hon'ble the Governor in Council,

H. YOUNG,

Offg. Chief Secretary to Government.

Bombay Castle, 4th March 1857.

TERRITORIAL DEPARTMENT,
FINANCE.

The subjoined Notification, issued by the Government of India, is republished for general information :—

No. 11.

* FORT WILLIAM, FINANCIAL DEPARTMENT,

The 6th February 1857.

NOTIFICATION.—Read an endorsement from the Home Department, No. 122, dated the 23rd ultimo, forwarding, for consideration and orders, a letter, No. 14, dated the 7th idem, from the Chief Secre-

tary to the Government of Fort St. George, having reference to the absence of Uncovenanted Servants drawing salaries of less than Rs. 100 a month.

RESOLUTION.—On the 25th July last, it was resolved by this Government, with a view to ensure a correct calculation of the periods of Service entitling Uncovenanted Servants to Pension, that the Heads of Public Offices and Departments under the control of the several Governments should furnish, on the 1st May of each year, to the Civil Auditors and the Military Auditors General of the several Presidencies, an Annual Return showing the Leave of Absence granted during the year (preceding), under the New Uncovenanted Civil Service Absentee Rules, to those Uncovenanted Servants whose leave might not have been notified in the *Gazette*.

Referring to this Resolution, the Government of Madras observes that, as the New Rules are restricted in their operation to Uncovenanted Servants in the receipt of salaries of Rs. 100 a month and upwards, the above orders would not appear to apply to Uncovenanted Servants whose salaries are below that amount, and that if such be the intention of this Government, there is nothing to prevent the entire periods of absence of Uncovenanted Servants of the latter class counting as service towards Pension. Definite orders, however, are solicited on this point, and also on a question raised by the Civil Auditor at Madras, "whether it is not left optional with the Heads of Offices to grant leave of absence to persons whose salary is less than Rs. 100 a month, for a limited period, either on sick certificate or private affairs, making such stoppages as they may think proper, the stoppages thus made being paid to the individuals performing the duties of the absentee, and no extra expense being incurred to the State."

On this solicitation of the Government of Madras, the Right Honorable the Governor General in Council is pleased to direct that, in granting leave of absence, either on medical certificate or on private affairs, to Uncovenanted Servants whose salaries are less than Rs. 100 per month, the Heads of Offices shall be guided by the spirit of the Rules prescribed for those Servants who are in the receipt of salaries of Rs. 100 a month and upwards; that all cases in which leave is so granted to Uncovenanted Servants whose salaries are less than Rs. 100 per month shall be reported to the Civil Auditor and the Military Auditor General respectively, in the manner prescribed in the Orders of the 25th July last; and that all past leave enjoyed by any such Uncovenanted Servant shall be counted as service under the orders of the Honorable the Court of Directors noted in the

Para. 44 of Court's Despatch No. 38 of 1856, dated 13th May, published in the *Calcutta Gazette* of the 16th July last, page 1136.

margin, although such leave may have exceeded the period allowed under the New Uncovenanted Civil Service Absentee Rules.

ORDER.—Ordered, that a copy of the foregoing Resolution be sent to the Home Department for communication to the Government of Fort St. George.

Ordered also, that a transcript of the above Resolution be forwarded to the Departments and the Governments noted in the margin, and also to the Civil Auditor at Fort William.

Foreign, Military, Public Works.
Bengal.
Bombay.
N. W. Provinces.
Straits Settlements.

Ordered further, that the above Resolution be published in the *Calcutta official Gazette* for general information.

By order, &c.

(Signed) C. H. LUSHINGTON,
Secretary to the Government of India.

By order of the Right Hon'ble the Governor in Council,
H. YOUNG,
Offg. Chief Secretary to Government.
Bombay Castle, 2nd March 1857.

TERRITORIAL DEPARTMENT, REVENUE.

Rao Bahadoor Soolrao Ayaajee is appointed Probationary Duffurdar to the Collector of Poona.

By order of the Right Hon'ble the Governor in Council,
H. YOUNG,
Offg. Chief Secretary to Government.
Bombay Castle, 4th March 1857.

GENERAL DEPARTMENT.

The following Notification is published in supersession of the one published under date the 24th February 1857, at page 546 of the *Government Gazette* of the 26th idem:—

NOTIFICATION.—Whereas by Section 91 of Act No. XIV. of 1856, entitled "An Act for the Conservancy and Improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," it is enacted and provided that, within the parts of any of the said Towns and Stations which shall be specially prescribed by the Local Government for the purpose, every place used as a slaughter-house shall be registered by the owner or occupier, in manner therein mentioned: now, therefore, the Right Honorable the Governor in Council of Bombay doth hereby specially prescribe and declare that the above recited Section of the said Act, and also Sections 92, 93, 95, and 96, and the enactments thereof respectively, shall henceforth extend to and include, and be in full force and operation within, the whole of the Islands of Bombay and Colaba, and every part thereof. Dated in Bombay Castle, this Third day of March, One thousand Eight hundred and Fifty-seven.

By order of the Right Hon'ble the Governor in Council,
W. HART,
Secretary to Government.

GENERAL DEPARTMENT.

It is hereby notified for general information, that it has been decided by the Government of India that when an Uncovenanted Servant exceeds by a few days the period of his privilege leave, the Rule obtaining in the case of Covenanted Officers shall be applied; that is to say, if an Uncovenanted Servant shall not return at the expiration of his privilege leave, he shall forfeit all Pay and Allowances during the time of his remaining so absent without leave; and if he shall so continue absent for more than one month beyond the term granted, his office shall become vacant.

By order of the Right Hon'ble the Governor in Council,
W. HART,
Secretary to Government.
Bombay Castle, 3rd March 1857.

GENERAL DEPARTMENT.

Nunoomeeya Jeevamceya is appointed a Municipal Commissioner for the Town of Dhundooka, in the Ahmedabad Collectorate, vice Umeershaib Noorulle, deceased.

By order of the Right Hon'ble the Governor in Council,

W. HART,

Secretary to Government.

Bombay Castle, 4th March 1857.

**MEDICAL DEPARTMENT,
CIVIL.**

The following promotions are made in the Vaccinating Establishment, Konkun Division:—

No. 32 of 1857.—Assistant Vaccinator Maljee Moolakur is promoted to the rank of First Assistant Vaccinator, in succession to Wamun Ramchunder, discharged.

No. 33 of 1857.—Apprentice Govind Bullall is promoted to the rank of Assistant Vaccinator.

No. 34 of 1857.—Ballojee Krishnaje Chawun is admitted into the Service as Junior Apprentice, to fill a vacancy.

Bombay, Medical Board Office, 27th February 1857.

No. 35 of 1857.—Venkutrao Soobrow and Lingapa bin Junapa Pumburjee are admitted as Apprentices into the Vaccinating Establishment of the Southern Deccan Division, vice Goondoo Sukaram and Ambajee Anunth, discharged.

No. 36 of 1857.—First Hospital Assistant Paul Baptista, of the Sattara Infantry Corps, and Acting First Hospital Assistant Hyem Ezekiel, of the Civil Hospital, Sattara, are directed to exchange appointments.

Bombay, Medical Board Office, 3rd March 1857.

By order of the Medical Board,

W. C. COLES, M.D., Assist. Surg.,
Acting Secretary Medical Board.

Advertisement.**JUDICIAL DEPARTMENT.**

MESSRS. THACKER and Co. have FOR SALE, on account of Government, at One Rupee per Copy, COPIES of the REPORTS of CASES DECIDED by the SUDDER FOUJDARE ADAWLUT during the Month of December last.

By order of the Right Hon'ble the Governor in Council,

H. L. ANDERSON,

Secretary to Government.

Bombay Castle, 28th February 1857.

PROCLAMATION.

BOMBAY TO WIT.—By virtue of a Precept to me directed, I hereby proclaim and give notice that the SESSION of Oyer and TERMINER, and GENERAL GAOL DELIVERY, will be holden before the Supreme Court of Judicature at Bombay, at the Court House, on WEDNESDAY, the 18th day of March instant, at 11 o'clock in the forenoon, for the trial of all Treasons, Murders, and other Felonies, Perjuries, Trespasses, and other Crimes and Misdemeanors, had, done, or committed within the Town and Island of Bombay, and the Limits thereof, and the Factories subordinate thereto; and also to inquire, hear, and determine, in the like

manner, all Treasons, Murders, Felonies, Forgeries, Perjuries, Crimes, Extortions, Misdemeanors, Trespasses, Wrongs, and Oppressions, had, done, or committed by any of Her Majesty's British Subjects in any of the Territories which now are subject to or dependent upon the said Government of Bombay, or within any of the Dominions of the Native Princes of India in alliance with the said Government.

And also, that at the same time and place will be holden a Session of Admiralty, for the trial of all Treasons, Murders, Piracies, Robberies, Trespasses, Misdemeanors, and other Crimes and Offences, had, done, perpetrated, or committed on the High Seas.

And I hereby give notice to all persons bound to prosecute and give evidence at the above Sessions, or in any way concerned therein, that they are to attend at the time and place above mentioned, and not to depart without leave of the Court.

And I hereby give notice to all Justices of the Peace, Coroners, Escheators, and also all Chief Constables and Bailiffs of the Town and Island of Bombay, and the Limits thereof, that they be then and there in their own persons, with their Rolls, Records, Indictments, and other Remembrances, to do those things which to their offices in that behalf appertain to be done.—Dated the 2nd day of March 1857, and in the Twentieth year of the Reign of Her Majesty Queen Victoria.

H. J. PARKINSON,

Sheriff.

जाहिरनामा.

मुंबईस खबर मजला हुकुम दिल्यावरून जाहीर करितों व खबर देतों की अयर आणि टेरेमीनर आणि जनरल जेल डीलीवरी याचे शेसन मुंबईतील जुडिक्टेरचे सुपिम कोडताचे हवेलीत चालत्या मार्च महिन्याचे १८ वे तारिखेस बुधवारी सकाळचे ११ वाजतांना त्रिजन खून चोरीचे खोट्या सद्या खोटी साक्ष वगैरे अन्याय आणि मिसडोमिनर जे मुंबई शहर व ठाणूमध्ये व त्यांच्या सिमेमध्ये त्यांचा हद्दीतील फ्याक्टोरीमध्ये केली असतील त्यांचा न्याय करण्याकरिता बसतील तसेच सर्व प्रकारचे अन्याय जे कोणी राणीचे ब्रिटीश प्रजेने मुंबईचे गवर्नराचे अमलतील राज्यामध्ये अथवा त्या सरकारासी सन्याने राहणारे हिंदुस्थानातील नेटिव राजांच्या राज्यांत केले असतील ते तपासण्या करिता बसतील.

अणखी सदहू वेळी व ठिकाणी समुद्रामध्ये जे त्रिजन खून व चोरी व त्या प्रकारचे दुसरे अन्याय केले असतील त्यांचा इनसाफ करण्या करिता अडमीरालटीचे शेसन भरले जाईल.

आणि जांस सदहू शेसनामध्ये फियाद करणे व साक्षी देणे अगत्य आहे अथवा कोण्याही प्रकारचा संमंध असेल त्या सर्व लोकांना जाहीर करितों की सदहू वेळी व ठिकाणी त्याही हजीर असावे आणि कोडताचे रजे सिवाय जाऊ नये मुंबई शहर व ठाणू व त्याचे हद्दीत जस्टीस आफ धी पीस कारोनर व येसचीटर व मुख्य कानिस्टेबल आणि ब्रेलफ या सर्वांस जाहिर करितों की त्या सर्वाही खत यादी कागद पत्र आणून तेथे त्या नेळी हजीर असावे व आप आपले हुयाचे काम करावे तारीख २ री माहे मार्च सन १८५७.

आणि राणी साहेब विकटोरिया यांचे विसावे वर्ष आहे.

एच. जे. पारकीन्सन, शरीफ.

જાહેર નામુ.

શ્રી (મુંબઈમાં) મને જે હોંકમ કાઢી છે તેહની જુમી પ્રમાણે હું અતેથી ઢંઢેરો કર્ય તથા ખપર આપુય કે મુંબઈના ગામ તથા યાપુમાં તથા તેહની હદમો તથા મુંબાઈ તાલુકાનાં અંગ્રેજ કોઠીવાલા ડેકાણુઓમો જે જે મોહટા દગા તથા જુન તથા ચોરી તથા જુહા રાપતના વાંકો તથા તકશીરો તથા બિજા યુનાહ તથા બુડાં કમો જે થાએઆં હોએ અથવા કિંધાં હોએ તેહની છાંડણુ કરવાને રાશ તથા તે સાથે મુંબઈ સરકારનાં અમલ નિયેનાં તથા તાએનાં હરેક મુલકમો તથા હોંદુ સ્વસ્થાનમાંનાં ગાંમડી રાજાઓ કે જે મુંબઈ સરકાર સાથે મિત્રા ચારી રાખે છે તેઓનાં હરેક રાજમાં નાંમદાર રાંણીની હરેક અંગ્રેજ પ્રજાએ જે જે મોહટા દગા તથા જુલુ તથા ચોરી તથા તરકટ તથા ખોટા રાપતનાં વાંકો તથા રાખતગીરી તથા બુડાં કમો તથા ગુકરાન તથા જુલમ કાઢી હોએ તે વીરો પણ રાંમલવાને તથા તેહનો ન્યાય કરવાને ચાલતા માર્ય મહિનાની તારીખ ૧૮ મી અને જુધવારને દીને પેહેલા પોહરના ૧૧ કલાકને અમલે શ્રી મુંબઈની જુડીકેશની મુખ્રીમ કોરટમો કે જે ઘેરમો કોરટ બરાએએ તે ઘેરમો આએર તથા ટરેમીનર તથા જનરલ દીક્ષીવરીની સેરાંન બેસરો.

અને બિજુ હું એમ જાહેર કર્ય કે મોહટા સમુદ્રમાં જે જે મોહટા દગા તથા જુલુ તથા ચાંચીઆ ચોરી તથા લુટ તથા તકશીરો તથા બુડાં કમો તથા બિજા યુનાહ કાઢી હોએ તેહનો ન્યાય છાંડવાને વારતે તેજ જગોએ આડમીરાલદી સેરાંન એટલે જે દરઆવરદી ખાતાના ન્યાયની સભા બેસરો.

અને હું અતેથી કુર્માંડિય તથા હોંકમ કર્ય કે ઉપર કહેલી સેરાંનમાં જે જે માણસોએ ઘાવો કર્યો હોએ અથવા તેહમાં હરેક રીતે ધલાકા રાખતા હોએ તેઓએ ઉપર કહેલાં વખત તથા જગોમો હાજરે થયું અને કોરટની રજા વનાં કોરટમાંથી જાડું નહીં—નામદાર રાંણી વીક્ટોરીઆનાં વીરામા વર્ષની તારીખ ૨ જી માર્ચ સન ૧૮૫૭.

એચ. જે. પારકીનરનાં રોડીફ.

No. 77 OF 1857.

Notice

Is hereby given, that a small supply of ADHESIVE ENVELOPES, referred to in the undermentioned Notice of the Officiating Director General of the Post Office in India, dated Calcutta, the 29th November 1856, have been received by this Department from Calcutta. Officers in charge of Local Depôts, requiring any, should prefer their Indent to this Department, as directed in the above notice.

"NOTICE.

"The Officers in charge of Treasuries and Depôts for the custody and sale of Postage Stamps are informed that Adhesive Envelopes, stamped with the value of One Anna, have been received from England, and, being now in charge of the Superintendent of Stamps, Calcutta, are now available on Indent.

"2. These Envelopes are in packets of 16, and each packet is enclosed in a wrapper, on which is marked the price, Rs. 1-2-0.

"3. The Rules for the sale of Postage Stamps are applicable to the sale of the Stamped Envelopes; but discount is allowed on the actual value of the

latter, and not the extra charge of 2 annas on every 16 Envelopes, which is added to cover the cost of the paper and manufacture.

"4. The Superintendent of Stamps will not supply the Stamped Envelopes in a smaller quantity than one Ream at a time, which consists of 30 Packets, and is of the value of Rs. 33-12-0, including the extra charge of 2 annas on each Packet."

J. W. MUSPRATT,
Superintendent of Stamps.

Bombay, General Stamp Office,
4th February 1857.

MILITARY

ARRIVALS AND DEPARTURES.

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ARRIVALS.

25th	Feb.—Major W. Reynolds, Staff, on duty, from Poona.
26th	" Lieutenant Broom, 28th Madras N. I., on duty, from Deccan.
"	" Lieutenant C. Douglas, 15th Regt. N. I., on duty, from the Neillgherries.
"	" Lieutenant D. C. Bell, 17th Regt. N. I., on duty, from Rajkote.
"	" Brigadier C. Stewart, Cavalry Brigade, on duty, from Kirkee.
"	" Assistant Surgeon F. Day, Hyderabad Contingent, on sick certificate, from Bolarum.
27th	" Veterinary Surgeon C. E. Barton, 1st Lancers, on duty, from Oolwa.
28th	" Captain W. J. Anderson, 11th Regt. N. I., on duty, from Vingorla.
"	" Lieutenant W. J. Stevenson, Artillery, to join, from Bhoaj.
"	" Lieutenant G. Maunsell, 11th Regt. N. I., to rejoin, from Poona.
1st	Mar.—Lieutenant Brodford, 6th Madras Cavalry, on duty, from Jaulnah.
2nd	" Captain T. D. Ker, Commandant at Porebunder, on leave, from Porebunder.
"	" Captain J. Forbes, 3rd Light Cavalry, on medical certificate, from Bushire.
"	" Lieutenant Colonel R. Farquhar, 1st Belooch Battalion, on leave, from Kurrachee.
"	" Lieutenant Colonel C. Birdwood, 3rd Regt. N. I., on duty, from Sholapore.
"	" Veterinary Surgeon A. Turnbull, 5th Bengal Cavalry, on leave, from Peshawur.
"	" Lieutenant E. Jones, 16th Regt. N. I., on duty, from Sukkur.
"	" Inspector General of Hospitals B. P. Rooke, M.D., Medical Staff, to join, from Kurrachee.
"	" Cadet W. G. Dick, Engineers, to join, from England.
"	" Captain W. Scott, Staff, on duty, from Alibaugh.
3rd	" Lieutenant J. Clements, Commissariat Department on duty, from Sholapore.

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DEPARTURES.

26th	Feb.—Major W. Reynolds, Staff, on duty, to Nassick.
27th	" Lieutenant W. J. Mills, 25th Regt. N. I., on duty, to Vingorla.
"	" Captain H. F. Davies, Superintendent of Police, on duty, to Kaira.
28th	" Lieutenant T. J. MacLachlan, Horse Artillery, to rejoin, to Poona.
1st	Mar.—Captain J. B. Knocker, 40th Madras N. I., to join, to Calcutta.
"	" Lieutenant T. R. Teschemaker, Artillery, on sick leave, to New South Wales.
2nd	" Assistant Surgeon J. H. Sylvester, Medical Establishment, on duty, to Persia.
"	" Ensign J. Jopp, 29th Regt. N. I., to join, to Belgaum.
"	" Captain H. Bruce, 2nd Eur. L. I., to join, to Persia.

Post Office Notifications.

OVERLAND MAIL.

The Overland Mail, per P. & O. Company's Steamer "BOMBAY," will be closed on THURSDAY, the 5th instant, at 6 o'clock P. M.

An After-Packet will be kept open, on payment of the usual fee, until two hours before the Steamer is advertised to leave the Harbour.

Letters for the United Kingdom, directed *via* Marseilles or *via* Southampton, may be prepaid or not, at the option of the sender.

The Inland and Steam Postage on Letters for Foreign Europe, *via* Trieste, as well as for places in the Mediterranean, Egypt, and Suez, remains unaltered: eight annas per $\frac{1}{2}$ oz., with Inland Postage, must be prepaid as heretofore.

Letters for the United Kingdom, and for places in the Mediterranean, if insufficiently paid by Stamps, will be forwarded to London *via* Southampton.

Post Office Packets for CEYLON, PENANG, SINGAPORE, HONGKONG, and COCHIN, per P. & O. Company's Steamer "ADEN," will be closed on SUNDAY, the 15th instant, at 6 P. M.; an After-Packet being kept open, on payment of the usual fee, until two hours before the Steamer is advertised to leave the Harbour.

Post Office Packets for KURRACHEE and SIND, per Bombay Steam Navigation Company's Steamer "VICTORIA," will be closed 12 hours after the arrival of the next Overland Mail.

Bombay Post Office, 4th March 1857.

W. BLOWERS,
Deputy Post Master General.

SHIP LETTERS.

The Ship Letter Office will despatch Letters, under the usual Regulations, by any of the following Ships.

N.B.—The Post Office takes every means in its power to ascertain the exact date on which the vessels enumerated below will leave the Harbour, but it cannot in any way guarantee their departure on the days mentioned in this List.

NAMES OF VESSELS.	AGENTS' NAMES.	DATE OF INTENDED DEPARTURE.	TO WHAT PORT.	WHERE TOUCHING.
Bombay	P. & O. Steam Navigation Company ..	6th March	Suez	Aden.
Aden	Ditto ditto	16th "	Hongkong	Galle and the Straits.
Defiance	Messrs. Ritchie, Steuart, & Co.	6th "	Liverpool.	
Victoria	Bombay Steam Navigation Company..	12 hours after the arrival of the Overland Mail	Kurrachee.	

As a general rule, the Packets for sailing vessels will be closed the evening preceding the date of departure.

LIST OF PACKETS MADE UP during the last Week at the Bombay General Post Office, for despatch by the following Vessels:—

NAMES OF VESSELS.	DATE OF DESPATCH.	TO WHAT PORT.
Phlox	27th February	Surat.
Courser	27th ditto	Mauritius.
Madras	1st March	Hongkong.
Carnac	2nd ditto	Surat.
Ajdaha	3rd ditto	Persian Gulf.

Bombay Post Office, 4th March 1857.

W. BLOWERS,
Deputy Post Master General.

NOTICE.

ONE ANNA STAMPED ENVELOPES are for SALE at this Office.

Bombay Post Office, 18th February 1857.

W. BLOWERS,
Deputy Post Master General.

NOTICE.

A Post Office will be established temporarily at Mhayjee, in Khandeish, during the ensuing Fair, from 10th instant to the 9th March next. All Letters, &c., for that place, are to be enclosed in a separate Packet, and sent *via* Dhoolia.

Bombay Post Master General's Office, 8th January 1857.

E. IMPEY,
Post Master General.

NOTICE.

The Public are informed that arrangements have been made for a new line of Contract Steamers for the conveyance of the Mails, once a month, between England and Australia, *via* Suez and Point de Galle.

2. The Steamers will leave Suez on the 27th of each month, are expected to reach Galle on the 14th, Melbourne and Sydney on the 5th and 8th respectively, making Galle on the homeward trip on the 7th and 8th, and Suez on the 22nd and 23rd.

3. The Bombay Mails for Australia will be despatched with the China Mails to Point de Galle, and for the present be received *via* Madras.

4. Letters posted in India for conveyance by the Contract Packets must be prepaid at the following rates, which include Inland Postage:—

Not exceeding $\frac{1}{4}$ an ounce 4 annas.

Exceeding $\frac{1}{4}$ ounce and not exceeding 1 ounce 8 do.

and so on, adding 8 annas for every ounce or fraction of an ounce.

5. On Letters posted in Australia for conveyance by the Contract Packets, the only Postage to which they will be liable in India will be the usual Indian Postage.

6. On Newspapers posted in India for the same conveyance, one penny or nine pies, must be prepaid in cash, in addition to the usual Inland Postage when despatched from a Mofussil Post Office or by the *After-Packet*.

7. Newspapers received by the Contract Packets from Australia will be subject to the usual Inland Postage only.

Bombay Post Master General's Office, 25th February 1857.

E. IMPEY,
Post Master General.

NOTICE.

The Public are hereby informed that the Post Office at Catagal, in North Canara, has been temporarily closed.

(Signed) R. H. WILLIAMSON,
Madras Post Master General's Office, 28th November 1856. Post Master General.

E. IMPEY,
Bombay Post Master General's Office, 11th February 1857. Post Master General.

NOTICE.

The Public are informed that the *Transit* rate of Postage on Letters conveyed to and from England and India *via* Marseilles is reduced from Five to Three Pence per Quarter Ounce as shown by the following Table:—

Weight.	Combined British and Indian Rate.	Additional or Transit Charge through France.	Total Charge.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
Not exceeding $\frac{1}{4}$ of an ounce	0 4 0	0 2 0	0 6 0
Ditto $\frac{1}{4}$ of an ounce	0 4 0	0 4 0	0 8 0
Ditto $\frac{1}{2}$ of an ounce	0 8 0	0 6 0	0 14 0
Ditto 1 ounce	0 8 0	0 8 0	1 0 0

And so on, adding 2 annas for every quarter of an ounce in addition to the combined British and Indian rate chargeable on the Letter.

A corresponding reduction is also made in the Postage on all Prepaid Letters forwarded through the United Kingdom to British Colonies, or Foreign Countries, when sent to the United Kingdom *via* Marseilles. It is to be observed, however, that the Postage so paid does not include the Postage between the United Kingdom and the British Colonies, or Foreign Territories.

Her Majesty's Post Master General has intimated that the charges upon Letters conveyed directly between France and India, *via* Egypt, have been reduced, but, in future, will be levied in France, and not in India. All such Letters, however, whether on despatch or receipt, will be subject to Inland or Indian Postage, excepting when posted or received at the Presidency Town Post Offices, in accordance with Clause VI. of the Post Office Act of 1854.

29th January 1857.

G. PATON,
Officiating Director General of the Post Office in India.

Bombay, Post Master General's Office, 11th February 1857.

E. IMPEY,
Post Master General.

NOTIFICATION.

No. 1348.

FORT WILLIAM, HOME DEPARTMENT—POST OFFICE,

The 9th September 1856.

In modification of the List published by order of the Government of India, in this Department, dated the 29th September 1854, it is hereby declared that Secretaries to Municipal Boards, Commissions, or Committees, are not authorised to send Letters, Packets, or Parcels by Post, on the Public Service, without payment of Postage.

(Signed) CECIL BEADON,
Secretary to the Government of India.



SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

THURSDAY, 5TH MARCH 1857.

Legislative Council.

7th February 1857.

The following Bill was read a second time in the Legislative Council on the 7th February 1857, and was referred to a Select Committee, who are to report thereon after the 11th of April next:—

A Bill for Simplifying the Procedure of the Courts of Civil Judicature of the East India Company in BENGAL.

Whereas it is expedient to simplify the Procedure of the Civil Courts of the East India Company in such parts of the territories under the Government of the Lieutenant Governor of Bengal as are subject to the General Regulations of the Bengal Code; It is hereby enacted as follows:—

1. This Act shall extend only to such parts of the territories under the Government of the Lieutenant Governor of Bengal as are subject to the General Regulations of the Bengal Code, except so far as is hereinafter otherwise expressly provided.

Chapter I.

SUDDER COURT.

The Sudder Court at Calcutta shall possess the appellate and other Civil jurisdictions now exercised by it, except so far as the same are altered or modified by this Act.

Chapter II.

CIVIL COURTS SUBORDINATE TO THE SUDDER COURT.

1. There shall be three grades of Judges in each zillah or district:—

Zillah Judges.
Principal Sudder Ameens.
Moonsiffs.

2. The Courts of the Zillah Judges, Principal Sudder Ameens, and Moonsiffs, shall be denominated after the zillah, or city, or division in which they are respectively established.

3. The appointment, suspension, and removal of the Zillah Judges, Principal Sudder Ameens, and Moonsiffs, shall be regulated by such rules and orders as the Governor General in Council shall from time to time pass.

4. Each Civil Court is to be presided over by one or more Judges; and every Judge, previous to entering upon the execution of the duties of his office, shall make and subscribe the following declaration before any authority or person commissioned by competent authority to receive it:—

“I, A. B., appointed of the Court of do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment.”

5. Each Civil Court is to use a seal, such as shall be prescribed by the Local Government.

6. It shall rest with the Governor General in Council, upon the report of Ministerial Officers, of the Sudder Court,

made after such communication with the zillah authorities as may be deemed requisite, to fix such establishment of ministerial officers as may be necessary for the due execution of all the duties committed to the several Civil Courts, and to prescribe the number of offices, the number of officers, their respective salaries, the tenure by which they are to hold office, and such other particulars as the said Governor General in Council may deem proper. Upon the receipt of the instructions of the Governor General in Council, the Judges of the Civil Courts shall make the appointments to the several offices of their respective establishments.

7. The Civil Courts shall be empowered to take cognisance of all suits and complaints of a civil nature, with the exception of suits their cognisance of which is barred by any Act of Parliament, or by any Regulation of the Bengal Code, or by any Act of the Council of India.

8. The Civil Courts shall not take cognisance, except in the way of appeal, or of review of judgment, of any cause which shall have been already heard and determined by a Court of competent jurisdiction between the same parties, or parties under whom the parties to the cause claim.

9. The Civil Courts are empowered to take cognisance of suits against collectors of the revenue and their assistants and native officers, salt agents and their assistants and native officers concerned in the manufacture of salt, opium agents and their assistants and native officers concerned in the manufacture of opium, collectors of the customs and their assistants and native officers employed in the collection of the customs, the mint and assay masters and their assistants and native officers, for acts done in their official capacity.

10. No person whatever shall, by reason of place of birth, or by reason of descent, be in any civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

11. The Moonsiffs shall be empowered to receive, try, and determine suits of every description cognisable by the Civil Courts under the following pecuniary limitations; provided the landed or other real property to which the suit may relate shall be situated, or provided in all other cases the cause of action shall have arisen, or the defendant, at the time when the suit may be commenced, shall dwell, or carry on business, or work for gain, within the limits to which their respective jurisdictions may extend:—

For money or other personal property not exceeding in amount or value the sum of two thousand five hundred Rupees, provided the claim include the whole amount of the demand arising from the cause of action; but any plaintiff having cause of action for debt or damages above the sum of two thousand five hundred Rupees may abandon the excess, and thereupon he shall, on proving his case, have a decree for an amount not exceeding such sum, and such decree shall be in full discharge of all demands in respect of such cause of action.

For the property or possession of land or other real property, the computed value of which shall not exceed two thousand five hundred Rupees.

12. If a defendant claim to set-off a demand against the claim of a plaintiff to an amount in excess of the ordinary jurisdiction of the Moonsiff, the Moonsiff shall, nevertheless, have authority to try the case, and shall give judgment for the recovery of any sum which upon inquiry shall appear to be due to either party.

13. The Principal Sudder Ameen shall be empowered to receive, try, and determine suits of every description cognisable by the Civil Courts in which the amount claimed or the computed value of the property may exceed the sum of two thousand five hundred Rupees, provided the landed or other real property to which the suit may relate shall be situated, or provided in all other cases the cause of action shall have arisen, or the defendant, at the time when the suit may be commenced, shall dwell, or carry on business, or work for gain, within the limits of the district over which his jurisdiction may extend.

14. The Principal Sudder Ameen shall further exercise the same powers as the Moonsiff within the limits of the territorial division now included in the local jurisdiction of the Moonsiff fixed at the sudder or head station of the district.

15. The Zillah Judge shall have concurrent original jurisdiction with that of the Principal Sudder Ameen in regard to all suits above the value of two thousand five hundred Rupees; provided, however, it shall be competent to a Zillah Judge, on cause shown, to receive, try, and determine a suit within the pecuniary limitation assigned to the Moonsiff, or to direct the transfer of any suit from any Court to any other Court of equal or superior jurisdiction in his district.

16. A suit for land or other real property situate within the limits of a single zillah, but within the jurisdiction of different Moonsiffs' Courts, may, with the previous sanction of the Judge of such zillah, be brought in any Court within the limits of which any portion of such property is situate, provided the entire claim in respect of the value of the property in suit be cognisable by such Court.

17. In like manner, if the property be situate within the limits of different Zillah Courts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other real property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; and if the suit is brought in the Court of the Principal Sudder Ameen or Moonsiff, the application shall be submitted through the Zillah Judge to whom such Principal Sudder Ameen or Moonsiff is subordinate.

18. If the Zillah Courts, within the limits of which the property is situated, are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the zillah in which the action is brought is subject; and the Sudder Court to which such application is made may, with the concurrence of the Sudder Court to which the other zillah is subject, give authority to proceed with the same.

19. No suit in any of the Civil Courts shall be open to objection on the ground that a merely

Declaratory suit.

declaratory decree or order is sought thereby, and it shall be lawful for the Court to make binding declarations of right without granting consequential relief.

20. The judicial decisions of the Courts of

By whom judicial decisions may be revised.

Justice shall be subject to revision only by the constituted Courts of appellate

jurisdiction, or by themselves, under the rules of the code of procedure applicable to reviews of judgment.

Chapter III.

PRELIMINARY RULES.

1. All applications to any Civil Court, and all

Parties may appear in person or by vakeel.

appearances of parties in any Civil Court, except when otherwise specially

provided, may be made by the party in person, or through a vakeel duly authorised to act on his behalf. The authority shall in all cases be in writing, and shall be filed with the proper officer of the Court. When so filed, it shall be considered to be in full force until revoked, and the revocation shall be intimated in writing to the officer; and all notices given to, or processes served on, the vakeel of either party, or left at the office or ordinary residence of such vakeel, relative to the suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the vakeel represents, and shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

2. In all cases in which a party shall appear

Party appearing in person to enter his name and address in a book.

in person, and the cause shall not be decided on the day of his appearance, he shall enter his

name and place of abode in a book to be kept for that purpose by the proper officer of the Court, if the Court shall determine upon his application that his place of abode is within eight miles from the Court-house by the nearest road; otherwise, he shall enter in the said book the name and place of abode of some person residing at a place which the Court shall determine to be within such distance of the Court-house, on whom he may wish that all notices or process in the cause should be served on his behalf. And all notices or process relative to the suit which may thereafter be left at the place so entered in the register shall be deemed good service on the party, and shall be as effectual for all purposes relative to the suit as if the same had been served on the party himself in person, unless the Court shall otherwise direct. If no such entry as aforesaid shall be made in the said register, the fixing up of such notices or process in some conspicuous place in the office of the clerk or other proper officer of the Court, and also in some conspicuous place in the Court-house, shall in like manner be deemed to be good service, and shall be as effectual for all purposes relative to the suit as if such entry had been made, and the notice or process had been left at the place so entered in the register.

3. When a native officer or soldier in the service of the Government is

Native officers or soldiers who cannot obtain leave of absence may authorise any person to appear for them;

a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or

defending it in person, he may authorise any member of his family or any other person to conduct and manage the suit or the defence, as the case may be, in his stead. The authority shall in all cases be in writing, and shall be signed by the native officer or soldier in the presence of his commanding officer, who shall countersign the same, and it shall be filed with the proper officer of the Court. When so filed, the counter-signature of the commanding officer shall be sufficient proof that the authority was duly executed, and that the native officer or soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

4. Any person who may be authorised, as in

Who may appear personally, or appoint vakeel.

the last preceding Article mentioned, by a native officer or soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the native officer or soldier could do if present; or he may appoint a vakeel of the Court to prosecute or defend the suit on behalf of such native officer or soldier. And all notices or process relative to the suit which may be served upon any person who shall be so authorised as aforesaid by a native officer or soldier, or upon any vakeel who shall be appointed as aforesaid by such person to act for or on behalf of such native officer or soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on a vakeel directly appointed by him.

Chapter IV.

OF A SUIT TILL FINAL DECREE.

Of the Institution of Suits.

Suits to commence with summons.

1. All suits shall be commenced by a summons to the defendant.

2. The application

Summons how to be applied for.

for a summons shall be made to the clerk or other proper officer of the Court by the party in person, or through a vakeel of the Court duly authorised to act on his behalf, by an instrument in writing, which shall be delivered to the officer at the time of making the application.

3. The application shall be accompanied by

Particulars to be given with the application.

the following particulars, distinctly written in the language in ordinary use in proceedings before the Court, namely—

(1.) The name, description, and place of abode of the plaintiff.

(2.) The name, description, and place of abode of the defendant, so far as they can be ascertained.

(3.) The relief sought for, the subject of the claim, the cause of action, and when it accrued. The following are instances:—

If the suit be for money due on a bond or other written instrument:—Payment of Company's Rupees due on (a bond, tumussook, hoondie, or bill of exchange, as the case may be) for the sum of Company's Rupees bearing date the day of and payable on the day of

If the suit be for the price of goods sold:—Payment of Company's Rupees on account of maunds of (rice, indigo, sugar, or as

[]
the case may be) sold on the day of
and the price of which became payable on the
day of

If the suit be for damages for slanderous words:—
Payment of Company's Rupees on ac-
count of injury done to the plaintiff, by calling
him on the day of a (thug, or thief, or
as the case may be), or by causing to be publish-
ed on the day of in a newspaper en-
titled the (or otherwise as the case may
be) the following slanderous words concerning
him (stating them at length, as the case may be).

(4.) When the claim is for any property other
than money, its estimated value Company's Ru-
pees. The following are instances:—

If the suit be for a Zemindary, or share in a
Zemindary:—Possession of a Zemindary, or of
annas gundas share in a Zemin-
dary called situate in the Zillah of
the Sudder Jummah of which is Company's
Rupees and estimated value Company's
Rupees of which the plaintiff was dispos-
sessed (or forcibly or fraudulently dispossessed,
if the case be so) on the day of or
to which the plaintiff became entitled by inheri-
tance from on or about the day
of

(5.) When the claim is for a declaration of
right, or the fulfilment of a duty in which the
plaintiff is interested, or that the defendant be
restrained from the committal of any breach of a
contract or other injury to the plaintiff, or for any-
thing not susceptible of pecuniary valuation, it
shall be necessary to specify the estimated value of
any property or any sum of money by way of
damages.

(6.) In all suits by or against the Government,
or one of its officers in his official capacity, or the
East India Company, or any other Corporation, or
any Company authorised to sue and be sued in the
name of an Officer or Trustees, the words "The
Government," or "The Collector of " or
otherwise as the case may be, or "The East India
Company," or name of the Corporation, or name
or names of the Officer or Trustees of the Com-
pany, shall be inserted in Nos. (1) and (2), instead
of the name and description of the Plaintiff or
Defendant. But in all other cases, it shall be
necessary to specify the names of all the parties.

4. If the amount or estimated value of the
claim, as stated by the
Application to be rejected
if the claim is beyond the
jurisdiction of the Court.
plaintiff, be beyond the
jurisdiction of the Court,
the officer shall refuse to
receive the application.

5. If the suit be for land or other real property
situate partly within the
Reference to be made to
the Judge in a suit for
property in different juris-
dictions.
jurisdiction of the Court,
and partly within the
jurisdiction of some other
Court or Courts, the officer shall submit the appli-
cation for the order of the Judge.

6. If the amount or estimated value of the
claim, as stated by the
When the claim is within
the Court's jurisdiction, the
officer shall enter the parti-
culars in a register.
plaintiff, be within the
jurisdiction of the Court,
the above particulars shall
be entered by the Officer in a book to be kept for
the purpose, and called the Register of Civil Suits,
and the entries shall be numbered in every year
according to the order in which the application
shall be made.

7. The register shall be kept in the form con-
tained in the Schedule
Form of the register. (A) hereunto annexed;
and a certified copy of the register, under the seal
of the Court, shall be received in evidence in all
Courts of Justice in India.

8. When the plaintiff's demand is founded on
Document of debt should
be shown to the officer.
any instrument in writ-
ing, as constituting or
acknowledging the de-
mand, such as a bond, tumusook, bill of exchange,
hoondee, ikrar, or acknowledgment, the same
shall be produced and shown to the officer at the
time of applying for the summons, and a copy of
the instrument shall be delivered to him at the same
time, for the purpose of being served with the
summons on the defendant; and if such instru-
ment shall not be produced, it shall not be receiv-
ed in evidence on behalf of the plaintiff at the
hearing or trial of the cause, without the sanction
of the Court. When there is more than one de-
fendant, a copy of the instrument for each defend-
ant shall be delivered to the officer, unless all
the defendants are members of one joint and un-
divided Hindoo family, in which case one copy of
the instrument will be sufficient.

9. The person applying to the officer for a
summons shall state, at
Summons may be for
settlement of issues, or
final disposal.
the time of his application,
whether he requires a
summons for the first
hearing and settlement of issues or for the final
disposal of the cause.

Of Summoning the Defendant.

10. The summons shall be in the following
Form of summons. form, or to the following
effect:—

No. of Suit

In the Court of the
holden at

of

Plaintiff.

Defendant.

[Name, description, and address of defendant.]

You are hereby summoned to appear at this
Court on the day of at in the
forenoon, to answer [name, description, and ad-
dress of plaintiff,] to a claim for [here state the
particulars, as in the Register referred to in Article
7 of this Chapter.]

Dated the day of

(Signature.)

Costs of summons and service

This summons must be served on or before the
day of

N. B.—See notice at back.

11. Special directions shall be endorsed on the
summons, which, if the
Directions to be endors-
ed on summons to settle
issues.
application be for a sum-
mons for the first hearing
and settlement of issues,
shall be as follows:—

(1.) If you admit the plaintiff's claim, you must
deliver your admission in writing, under your
signature, to the officer of the Court, together with
the costs marked on the summons, five clear days
before the day for appearing to this summons; but
you may enter your admission at any time on or
before the day of appearing, subject to the pay-
ment of further costs.

(2.) If you admit any part of the plaintiff's demand, and pay to the officer of the Court the amount so admitted, together with the costs, five clear days before the day of appearance, you will avoid any further costs, unless the plaintiff at the hearing shall prove a demand against you exceeding the sum so paid into Court.

(3.) If you deny the plaintiff's claim, or any part of it, you must appear on the day fixed in the summons, and be prepared to answer all questions that may be put to you by the Judge, relating to the plaintiff's demand, and your liability thereto, and to state any objections which you may have to make to the same.

(4.) You must bring all documents or instruments in writing of any description, which you may wish to produce in explanation, or as evidence of your defence to the suit, or of any counter-claim against the plaintiff which you may desire to make a set-off to his demand against you; and in particular, you must bring with you all or any instruments in writing or things which may be specified in any notice to produce that accompanies this summons, or that may be served on you within a reasonable time before your appearance thereto.

(5.) If you do not appear in person, you must employ a vakeel of the Court to appear in your stead, and must furnish him with the documents, instruments, or things above referred to, and with any information that you possess in regard to the plaintiff's demand, and your own defence thereto; so as to enable him to answer for you in all respects as you could do yourself if interrogated in person. And if you fail in any of these matters, and your vakeel is unable to answer any questions that may be put to him on your behalf by the Judge, and the Judge shall be of opinion that the documents, instruments, or things referred to, are such as you ought to have produced, or that the questions put to your vakeel are such as you ought to be able, or are likely to be able, to answer, if interrogated in person, the hearing of the case will be postponed, a notice will be given to your vakeel requiring your personal appearance and the production of the documents, instruments, or things referred to, and you will have to pay all the costs; and if you should fail to appear in obedience to such notice, judgment will be given against you by default.

(6.) If you do not appear on the day fixed in the summons, either in person or by a vakeel of the Court, judgment will be given against you by default.

12. If the application be for a summons finally to dispose of the case, this further direction shall be endorsed thereon:—

(7.) You are required to take special notice that the day fixed in the summons for your appearing is appointed for the final disposal of the case, and that you must be prepared to produce all your witnesses. If you fail to do so, and the Judge shall think proper to postpone the cause to another day in consequence of your default, you will have to pay all the costs that may be incurred by the postponement. If your witnesses will not come at your request, you should apply to the officer of the Court, either in person or by vakeel, not later than the day of for subpoenas to compel their attendance.

13. If the summons be to settle the issues, the day for the appearance of the defendant shall not be less than ten days, ex-

clusive of the day of service and day of appearance, above the time that may be necessary for the service of the writ, such time to be computed at the rate of one day for every eight miles in a straight line that the residence of the defendant may be distant from the Court.

14. If the summons be for a final disposal of the case, the day to be fixed for the appearance of the defendant shall not be less than fifteen days (exclusive as aforesaid) above the time that may be necessary for the service of the writ, such time to be computed in the manner above mentioned.

Service of Summons on the Defendant.

15. The writ of summons shall be delivered to the nazir or other proper officer of the Court, to be served by himself or one of his subordinates, and such officer shall be responsible for its due service.

16. A day on or before which the summons must be served shall be written at the foot of the summons before delivery to the officer, and the day so to be written shall be always such as to allow the defendant the full benefit of the clear days to which he may be entitled under Articles 13 and 14 of this Chapter.

17. Service of the summons shall be made by exhibiting the original under the seal of the Court, and delivering or tendering a copy thereof, and of the endorsements thereon, together with any notice to produce, and copies of any documents or instruments in writing that may have been delivered to the clerk, or proper officer of the Court, at the time of applying for the summons, for the purpose of being served therewith.

18. When there are several defendants, service of the summons shall be made on each defendant, unless all the defendants are members of one joint and undivided Hindoo family; in which case service on any one of the defendants shall be sufficient, if made at the family dwelling-house of the joint and undivided family.

19. Whenever it may be practicable, the service shall in all cases be on the defendant in person, unless he have an accredited agent, empowered to accept the service; in which case service on such agent shall be sufficient.

20. Any vakeel of the Court, or any other person residing within its local jurisdiction, may be appointed an accredited agent to receive the services of summonses and all other judicial process. The appointment shall always be in writing, and shall be filed with the clerk or other proper officer of the Court to which the agent is accredited, and shall be considered to be in full force until it shall be revoked, and such revocation be recorded with the proper officer of the Court.

21. The Government Pleader in each Court shall be accounted the accredited agent of the Government.

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Government for the purpose of receiving services of summonses, and all other judicial process against the Government, issuing out of the Court in which he may be the pleader of Government.

22. When the defendant cannot be found, and has no accredited agent empowered to accept the service, it may be made on any adult member of his family residing with him.

The person served is to be required to endorse the summons.

23. In all cases where the summons is served on the defendant personally, or any agent or other person on his behalf, the serving officer shall require the signature of the person on whom the service may be made to an acknowledgment of service to be endorsed on the original summons.

24. When the defendant cannot be found, and there is no agent or other person empowered to accept the service, nor any member of his family on whom the same can be served, the serving officer shall fix the copy of the summons, with its endorsement, and accompanying notice and copies of documents, if any be annexed thereto, on the outer door of the defendant's dwelling-house; and if he shall have no dwelling-house in the place, the serving officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

25. The serving officer shall, in all cases in which the summons has been served, endorse on the original summons the time and the manner when and how it was served.

26. In all cases in which a summons shall be returned to the Court without having been served on the defendant, the plaintiff shall be at liberty to apply to the Court for an order to substitute some other mode of serving the summons for service in the manner above specified; and if it shall appear to the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its officer, for the purpose of avoiding the service of the summons, it shall pass an order directing that the summons may be served, by fixing up copies thereof, with its endorsement and accompanying notice and copies of documents, if any be annexed thereto, upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

27. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last Article, the time for the appearance of the defendant shall be enlarged, so as to allow him the full benefit of the clear days to

which he may be entitled under Articles 13 and 14 of this Chapter.

28. If the defendant be resident within the jurisdiction of any other Court than that in which the suit may be instituted, and has no accredited agent empowered to accept the service, the summons shall be transmitted by the clerk or proper officer of the Court to the clerk or proper officer of the Court within whose jurisdiction the defendant may reside, with such enlargement of the time for appearance as the case may require. And the clerk or proper officer of the last-mentioned Court shall, upon receipt thereof, deliver the same to the nazir or other proper officer of his own Court, to be served in the manner above directed; and upon the return of the summons by the serving officer, it shall be re-transmitted to the clerk or proper officer of the Court from whence it originally issued.

29. If the defendant be resident at some place out of the territories of the East India Company, and have no agent empowered to accept the service, and the suit be for landed or other real property, the summons may be served on any person in charge of the landed or other real property to which the suit may relate, and the service shall be as effectual for all purposes of the suit as if the person had been duly empowered to accept it. If there shall be no person in charge of the landed or other real property to which the suit relates, on whom the summons can be served, or if the suit shall not relate to landed or other real property, but the defendant is nevertheless subject to the jurisdiction of the Court by reason of the cause of action having arisen within the limits of its jurisdiction, a copy of the summons, and of the endorsements thereon, together with any notice to produce, and any copies of any documents or instruments in writing that may have been delivered to the clerk or other proper officer of the Court, at the time of applying for the summons for the purpose of being served therewith, shall be addressed to the defendant at the place where he may reside, and forwarded to him by post: provided that, in all cases in which a defendant is resident at some place out of the territories of the East India Company, the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is holden and the place where the defendant resides; and provided also, that if on the day fixed for the hearing of the cause, or on any other day subsequent thereto on which the cause may be called on, the defendant shall not appear in person, or by vakeel, the plaintiff shall apply to the Judge, and it shall be lawful for the Judge to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to such Judge may seem meet; provided always, that the plaintiff shall prove his case to the satisfaction of the Judge, and the making such proof shall be a condition precedent to his obtaining judgment.

30. When the defendant is a native officer or soldier in the service of the Government, a copy of the summons and of

the endorsements thereon, together with any notice to produce, and any copies of any documents or instruments in writing that may have been delivered to the clerk or other proper officer of the Court for the purpose of being served therewith, shall be transmitted by the Judge to the commanding officer of the corps to which the native officer or soldier shall belong, for the purpose of being served on such native officer or soldier. The commanding officer, after causing the summons and its accompanying notices and copies of documents to be served on the party to whom it is addressed, if practicable, shall return the summons to the Judge, with the written acknowledgment of the party endorsed thereon. If from any cause the summons cannot be served upon the native officer or soldier to whom it is addressed, it shall be returned by the commanding officer to the Judge from whom it may have been received, with information of the cause which has prevented the service of it. In such case the Court shall either make a further reference, with the view of causing the summons to be duly communicated to the native officer or soldier, or shall adopt such other measures for that purpose as, on a consideration of the circumstances of each case, shall appear to be proper.

How Privileged Persons are to be summoned.

31. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons a letter, roobekaree, or other appropriate proceeding under the seal of the Court, when the person whose presence is required is of a rank or class in society which entitles him to such mark of consideration; and in such cases the letter or other proceeding shall be treated in all respects as a summons, and shall be accompanied with a copy of the directions which would ordinarily be endorsed on the summons, and with any notice and copies of any other documents which would have been delivered therewith, if a summons had been issued for the appearance of the party.

32. A list of the persons (if any) residing within the limits of the Court's jurisdiction, who are entitled to the mark of consideration mentioned in the last Article, shall be kept in the office of the clerk or other proper officer of the Court, and any application for a summons against a person whose name is entered in the said list shall be referred by the officer to the Judge for his order before the summons shall be issued to the defendant.

33. When a letter or other proceeding is sent to a party on account of his being of a class or rank of society that entitles him to that distinction, it may be transmitted through the post-office, or by a special messenger selected by the Court, or in any other manner that the Court may deem sufficient; unless the party shall have an accredited agent empowered to accept service of judicial process; in which case delivery to such agent shall be sufficient service. When the letter is transmitted through the post-office, or by special messenger, proof that it was duly posted or was delivered to the messenger shall be sufficient proof of its due service, in the absence of evidence to the contrary.

How Persons not before the Court may be made Parties to a Suit.

34. In every suit concerning the succession or

In certain cases of inheritance a proclamation for claimants to be issued at the same time as the summons to the defendant. right of inheritance to a zemindary, talook, land, house, or other real property, to which there may be more persons than one who, by the Hindoo or

Mahomedan law (regard being had to the religion of the claimants), would be entitled to a portion of the estate, there shall be issued, at the same time with the summons to the particular defendant or defendants, and in addition thereto, a proclamation setting forth the names of the parties, the nature of the suit, the day fixed for the hearing of the cause, and whether it have been fixed for the first hearing and settlement of issues, or for final disposal, and calling on all persons having any claim to any share or interest in the property to appear on the said day, either in person or by a vakeel of the Court, and be prepared to state their claims to the Court, and to support them by proper evidence.

35. The proclamation shall be read aloud by the

Proclamation how to be published. officer employed to serve the summons on some public place within the limits of the zemindary, talook, land, or other real property concerning which the suit may be brought, and copies thereof shall be fixed up in some conspicuous part of the Court-house, and on the outer door of the family dwelling-house of the person the right of succession or inheritance to whose property is in question; or of the house in which he may have last resided. If the suit shall be brought in any Court subordinate to the Zillah Judge, a copy of the proclamation shall also be fixed up in some conspicuous part of the Court of the Zillah Judge, as well as in the Court of the particular Judge in whose Court the suit may be brought.

36. If in any suit it shall appear to the Court at

Proclamation may be issued in any suit by order of the Court. any hearing of the cause, that all the persons who may be entitled to some share or interest in the property in dispute have not been made parties to the suit, it shall be competent to the Court to adjourn the hearing of the cause to a future day, to be fixed, and to direct a proclamation to be issued, calling upon all persons having any claim to any share or interest in the property to appear on the day so to be fixed, and be prepared to state their claims to the Court, and to support them by proper evidence. If the suit shall relate to the succession or right of inheritance to a zemindary, talook, land, house, or other real property, the proclamation shall be published or made known in the manner prescribed in the last preceding Article. If the suit shall relate to any other matter or thing, a copy of the proclamation shall be fixed up in some conspicuous part of the Court-house, and it shall also be competent to the Judge to direct that the proclamation shall be published or made known in such other manner as he may think proper. If the suit shall be brought in any Court subordinate to the Zillah Judge, a copy of the proclamation shall in all cases be fixed up in some conspicuous part of the Court of the Zillah Judge, as well as in the Court of the particular Judge in whose Court the suit may be brought.

37. If any claimant shall appear on the day fixed in any proclamation issued under the provisions of Article 34 or of Article 36 of this Chapter, the Court shall investigate his claim and pronounce a decision thereon, in the same way as if he had been made originally a party to the suit.

Of Suits against the Government and its Officers.

38. If the suit be against the Government, or against any of its officers, for acts which the plaintiff at the time of applying for the summons alleges to have been done in an official capacity, the application for the summons shall be referred by the officer to the Judge for his order before any summons shall be issued to the defendant.

39. If it shall appear to the Judge, after examining the applicant, that the act complained of was done pursuant to a special order originating with the Government, or with the Board of

Revenue, and that the officer by whom the act was done is not liable to be sued for it, the Judge shall direct the person who may have made the application for the summons to apply in the first place to the Government by petition, stating wherein he considers himself injured under the Regulations of the Bengal Code, or the Acts of the Council of India, and praying that the Government will order the Court of Civil Judicature in which the cause may be cognisable to try the contested points or matters by the Regulations or Acts. If the Government shall deem proper to grant the prayer of such petition, and the plaintiff shall file an order to the above effect with the clerk or proper officer of the Court; or if a plaintiff shall, in the first instance, with his application for a summons in a case of the aforesaid description, produce an order from the Government to the effect aforesaid, and it shall appear to the Judge that the case is within his jurisdiction and cognisable under the order, he shall direct the summons to be issued to the officer by whom the act complained of may have been done, in the same way as is hereinbefore prescribed for the issuing of summonses to private individuals; and in no case shall a summons be issued to any defendant in a case of the nature aforesaid, without an order to the effect aforesaid.

40. If it shall appear that the act complained of was done without any order of the Government or of the Board of Revenue, and that the act complained of is one for which the officer by whom it was done is declared

amenable under the Regulations of the Bengal Code, or the Acts of the Council of India, the Judge shall transmit the particulars of the claim as set forth in the Register referred to in Article 7 of this Chapter, to the Board of Revenue, together with copies of any documents or instruments in writing that may have been delivered to the clerk or proper officer of the Court at the time of applying for the summons for the purpose of being served therewith.

41. The Board of Revenue, after making due inquiries on the subject, shall determine whether the party complaining is entitled to redress directly from Government, or whether he shall be left to prosecute the case in the regular course of law; and if they shall be of opinion that the party should be left to prosecute the case in the regular course of law, they shall inform the Judge by whom the case may have been referred to them of their determination to that effect, and also whether the case is to be defended by the public officer as a suit against the Government, or by the person affected by the complaint in his individual capacity.

42. At the expiration of six weeks from the transmission, or at any earlier period when the Judge may receive intimation from the Board of Revenue that it has been decided that the party complaining shall be left to prosecute his case in the regular course of law, the Judge shall direct a summons to be issued to the officer whose act has been complained of, in the same manner as is hereinbefore prescribed for the issuing of summonses to private individuals.

Of Arrest before Judgment.

43. If in any suit the defendant, with intent to avoid or delay the plaintiff, is about to leave the jurisdiction, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court to demand that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

44. If the Court, after examining the applicant, and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction, with the intent of avoiding or delaying the plaintiff, it shall issue a warrant to the proper officer, enjoining him to bring the defendant before the Court, that he may give good and sufficient bail for his appearance at any time when called upon while the suit is pending, and until execution of any decree that may be passed against him in the suit; the surety or sureties undertaking, in default of such appearance, to pay, to an extent to be fixed by the Judge and specified in the warrant, any sum of money that may be adjudged against him in the suit, with costs.

45. The sureties for the personal appearance of the defendant may at any time apply to the Court to be relieved from their engagements as sureties, whereupon the Court shall issue its warrant, directing that the defendant be brought before it. On the appearance of the defendant to such warrant, or on his voluntary surrender, the Judge shall direct the engagement of the sureties to be cancelled, and shall call upon the defendant to give fresh security, and in default thereof shall commit him to custody.

46. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit, and forthwith discharge the defendant.

47. In the event of the defendant neither furnishing security, nor offering a sufficient deposit, he may be committed to custody until the decree shall have been passed.

48. If in any suit the defendant is about to leave the territories of the East India Company, with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court, to the effect and in the manner aforesaid, and the procedure shall be in all respects the same as hereinbefore provided.

Of Sequestration before Judgment.

49. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property, or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, it shall be lawful for the Court, on the application of the plaintiff in manner aforesaid, either at the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, when required; and, on his failing to give such security, to direct that any property, real or personal, belonging to the defendant, or any debts due to him, or any money standing in his name or to his account, and in deposit in any Court of Justice, or any office of Government, or at his credit in any bank, or any interest or dividends payable or thereafter to become payable on any Government paper or shares in the capital or joint-stock of any banking, railway, or other public company or corporation, standing in his name, or such a portion of such property, debts, or money, as may be sufficient to fulfil the decree, shall be attached and held in sequestration until the further order of the Court.

50. The application shall be accompanied with the following particulars distinctly written in the language in use in proceedings before the Court, namely the nature and amount of the claim, the property required to be sequestered, and the supposed value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the claim is a just one, and that the defendant is about to dispose of or remove his property in manner aforesaid.

51. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall

be satisfied that the defendant intends to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, and if the plaintiff shall in person or by his agent enter into a bond rendering himself liable in such sum as may be judged adequate for all injury arising from the sequestration, in the event of his demand being disallowed, either wholly or in part, the Court shall thereupon issue a warrant to the proper officer, commanding him to require security from the defendant, in such sum as may be specified in the order, to produce and place at the Court's disposal, when required, the said property, or a portion thereof sufficient to fulfil the decree.

52. If such security is not furnished within the time specified in the order, the Court shall direct that the property, debts, or money mentioned in the particulars which accompanied the plaintiff's application, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached, and kept under sequestration until further order.

53. The process for requiring security and for attachment and sequestration, when the property shall consist of goods and chattels, or other personal estate and effects, may be issued successively or simultaneously, as the Court shall think proper.

54. The attachment and sequestration shall be made, according to the respective natures of the property to be attached and sequestered, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money.

55. In all cases of sequestration before judgment, the Court which passed the order for the sequestration shall at any time remove the same, on the defendant's furnishing security as above required, together with security for the costs of the sequestration.

56. If on the trial of the suit it shall be discovered that the sequestration was applied for on insufficient grounds, or if the plaintiff's claim is disallowed, either wholly or in part, the Court shall (unless the defendant shall in preference seek redress by a civil action for damages) award against the plaintiff in its decree the whole of the amount specified in his penalty bond, or such part thereof as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the plaintiff.

57. Sequestrations before judgment shall not bar any person holding a decree against the defendant from attaching the property under sequestration, or affect the rights of persons not parties to the suit.

58. But if the party at whose instance the property was sequestered points out other property of the defendant unattached, the creditor shall be bound in the first instance to attach and sell such property in execution of his decree before selling the property under sequestration.

59. Whenever lands paying revenue to Government form the subject of a suit, if the party in possession of such lands shall neglect to pay the Government revenue, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands, and shall be entitled to charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the cause.

Special case in which plaintiff may be put in immediate possession of land the subject of suit.

sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands, and shall be entitled to charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the cause.

Of Injunctions.

60. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the cause is in danger of being wasted or damaged by any party to the suit, it shall be lawful to the Court to issue its injunction to such party, commanding him to refrain from doing the particular act or acts complained of, or to give such other orders for the purpose of staying and preventing him from wasting or damaging the property as to the Court may seem meet.

Cases in which an injunction to stay waste may be granted.

And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a cause, it shall be lawful to the Court to appoint a receiver or manager of such property, and, if need be, to remove the person or persons in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper.

Or in which a receiver or manager may be appointed.

And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a cause, it shall be lawful to the Court to appoint a receiver or manager of such property, and, if need be, to remove the person or persons in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper.

61. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff at any time after the commencement of the suit, and whether before or after judgment, to apply *ex parte* to the Court for an injunction to restrain the defendant from the repetition or the continuance of the wrongful act or breach of contract complained of, or the committal of any breach of contract, or injury of a like kind, arising out of the same contract or relating to the same property or right; and such injunction may be granted or denied by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just; and in case of disobedience, such injunction may be enforced by imprisonment in the same manner as a decree for specific performance: provided always, that any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Special rule in actions for injunctions.

And whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff at any time after the commencement of the suit, and whether before or after judgment, to apply *ex parte* to the Court for an injunction to restrain the defendant from the repetition or the continuance of the wrongful act or breach of contract complained of, or the committal of any breach of contract, or injury of a like kind, arising out of the same contract or relating to the same property or right; and such injunction may be granted or denied by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just; and in case of disobedience, such injunction may be enforced by imprisonment in the same manner as a decree for specific performance: provided always, that any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Of Withdrawing Suits.

62. If the Plaintiff be desirous of withdrawing from the cause, he may give notice thereof to the clerk or proper officer in person, or by his vakeel, and to the defendant by prepaid registered post letter; after the receipt of which by the defendant he shall not be entitled to any further costs than those incurred up to its receipt, unless the Judge shall otherwise order; and proof that the letter was duly posted shall be sufficient proof of the receipt thereof by the defendant, in the absence of evidence to the contrary.

How the Plaintiff may withdraw from a suit.

after the receipt of which by the defendant he shall not be entitled to any further costs than those incurred up to its receipt, unless the Judge shall otherwise order; and proof that the letter was duly posted shall be sufficient proof of the receipt thereof by the defendant, in the absence of evidence to the contrary.

63. If the notice be given to the officer at any time before the day mentioned in the summons, for the appearance of the defendant, the plaintiff shall be at liberty to bring a fresh suit for the same matter, unless precluded by the rules for the limitation of actions. If the notice be given on or subsequent to such day, the plaintiff shall be precluded from bringing a fresh suit for the same matter, unless he shall have previously obtained the consent of the defendant, or the permission of the Judge to withdraw the suit. It shall be competent to the Judge at any time before final judgment to grant such permission on what may appear to him sufficient grounds for so doing, and on such terms as to costs or otherwise as he may deem proper.

Effects of withdrawal.

for the appearance of the defendant, the plaintiff shall be at liberty to bring a fresh suit for the same matter, unless precluded by the rules for the limitation of actions. If the notice be given on or subsequent to such day, the plaintiff shall be precluded from bringing a fresh suit for the same matter, unless he shall have previously obtained the consent of the defendant, or the permission of the Judge to withdraw the suit. It shall be competent to the Judge at any time before final judgment to grant such permission on what may appear to him sufficient grounds for so doing, and on such terms as to costs or otherwise as he may deem proper.

Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.

64. The death of a plaintiff or defendant shall not cause the suit to abate. A note of the death shall be entered on the register of the suit, and the suit may be continued as hereinafter mentioned.

Suit not to abate by death.

not cause the suit to abate. A note of the death shall be entered on the register of the suit, and the suit may be continued as hereinafter mentioned.

65. If there be two or more plaintiffs or defendants, and one or more of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

Proceedings in case of death of one or more of several plaintiffs or defendants.

and one or more of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

66. If there be two or more plaintiffs, and one or more of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall accrue to them and the legal representative or representatives of the deceased plaintiff or plaintiffs, the Court may, on the application of the legal representative or representatives of the deceased plaintiff or plaintiffs, enter the name or names of such representative or representatives in the register of the suit in the place or stead of such deceased plaintiff or plaintiffs, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and such legal representative or representatives of the deceased plaintiff or plaintiffs; and if the application be made before the trial, and there be any dispute as to the fact of the person or persons so applying being the legal representative or representatives of the deceased plaintiff

Proceeding in case of death of one or more of several plaintiffs, where the right of action accrues to the survivor and the representative of the deceased.

and one or more of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall accrue to them and the legal representative or representatives of the deceased plaintiff or plaintiffs, the Court may, on the application of the legal representative or representatives of the deceased plaintiff or plaintiffs, enter the name or names of such representative or representatives in the register of the suit in the place or stead of such deceased plaintiff or plaintiffs, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and such legal representative or representatives of the deceased plaintiff or plaintiffs; and if the application be made before the trial, and there be any dispute as to the fact of the person or persons so applying being the legal representative or representatives of the deceased plaintiff

or plaintiffs, the truth thereof shall be tried, thereat, together with the title of the deceased plaintiff or plaintiffs, and judgment shall be given in favour of or against the person or persons making such application, as if such person or persons were originally a plaintiff or plaintiffs. If no application shall be made to the Court by any person or persons claiming to be the legal representative or representatives of the deceased plaintiff or plaintiffs, the Court shall direct a proclamation to be issued and published in the manner prescribed in Articles 35 and 36 of this Chapter, calling upon the legal representative or representatives of the deceased plaintiff or plaintiffs to appear on a day to be fixed in such proclamation, and to proceed with the suit in his or their stead. If any person or persons shall appear on the day mentioned in the proclamation, to proceed with the suit as the legal representative or representatives of the deceased plaintiff or plaintiffs, his or their name or names shall be entered in the register of the suit, and the suits shall proceed at the instance of the surviving plaintiff or plaintiffs, and such person or persons so appearing as the legal representative or representatives of the deceased plaintiff or plaintiffs; and if the appearance be made before the trial, and there be any dispute as to the fact of the person or persons so appearing being the legal representative or representatives of the deceased plaintiff or plaintiffs, the truth thereof shall be tried thereat, together with the title of the deceased plaintiff or plaintiffs, and judgment shall be given in favour of or against the person or persons so appearing, as if such person or persons were originally a plaintiff or plaintiffs. And if no person shall appear on the day to be fixed in the said proclamation, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and if judgment be given in favour of the defendant, the legal representative or representatives of the deceased plaintiff or plaintiffs shall be bound thereby equally with the surviving plaintiff or plaintiffs; but if judgment be given against the defendant or defendants, it shall only be to the extent of the share or shares of the surviving plaintiff or plaintiffs, and with a reservation of the rights of the legal representative or representatives of the deceased plaintiff or plaintiffs.

67. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the legal representative or representatives of such plaintiff, enter the name of such representative or representatives in the place or stead of such plaintiff in the register of the suit, and the suit shall thereupon proceed; and if such application be made before the trial, and the fact be disputed, the truth thereof shall be tried thereat, with the title of the deceased plaintiff, and judgment shall be given in favour of or against the person or persons making the application, as if such person or persons were originally the plaintiff or plaintiffs. If no application shall be made to the Court within what it may consider a reasonable time, by any person or persons claiming to be the legal representative or representatives of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award the defendant the reasonable costs which he may have incurred in defending the suit, to be recovered from the estate or estates of the deceased sole plaintiff or surviving plaintiff, or, if the Judge shall think

proper, he may, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative or representatives of the deceased sole plaintiff or surviving plaintiff, and prosecuting the suit to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

68. If there be two or more defendants, and one or more of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the clerk or other proper officer of the Court, with the following particulars distinctly written in the language in ordinary use in judicial proceedings before the Court, namely the name, description, and place of abode of any person or persons whom he alleges to be the legal representative or representatives of such defendant or defendants, and whom he desires to be made the defendant or defendants in his or their stead; and the clerk or other proper officer of the Court shall thereupon enter the name of such representative or representatives in the register of the suit in the place or stead of such defendant or defendants, and shall issue a summons to him or them to appear on a day to be therein mentioned, to defend the suit. If no application shall be made to the Court, the Court shall direct a proclamation to be issued and published in the manner prescribed in Articles 35 and 36 of this Chapter, calling upon the legal representative or representatives of such defendant or defendants to appear on a day to be fixed in such proclamation, and defend the suit. If any person or persons shall appear on the day mentioned in the proclamation, to make defence to the suit as the legal representative or representatives of the deceased, his or their name or names shall be entered in the register of the suit, in the stead of the deceased defendant or defendants, and the suit shall proceed in the same way as if such person or persons had been originally a defendant or defendants thereto. And if no person shall appear on the day to be fixed in the said proclamation, the Court may proceed to dispose of the cause in the manner provided in Article 74 of this Chapter, or may make such order as may appear to be just and proper in the circumstances of the case.

69. In all cases in which the legal representative or representatives of a deceased defendant or defendants shall be entered in the register, in the stead of such deceased defendant or defendants, if the issues shall not have been settled before the death, the new defendant or defendants shall be entitled to make all objections which would have been competent to the deceased defendant or defendants, and in addition thereto may make such other objections to the suit as may be appropriate to, and rendered necessary by, his or their character of legal representative; but if the issues shall have been settled before the death, the new defendant or defendants shall be at liberty to object only by way of denial, or to make such other objection only as may be appropriate to and rendered necessary by his or their character of legal representative, unless by the

Proceeding in case of death of sole or sole surviving plaintiff.

Objections which are competent to the new defendant.

leave of the Judge he or they shall be permitted to object fresh matters; and in case the plaintiff shall recover, he shall be entitled to the like judgment in respect of the debt or sums sought to be recovered, and in respect of the costs prior to the entry of the name of the new defendant or defendants, as he would have been entitled to against the original defendant or defendants, and in respect of the costs subsequent thereto he shall be entitled to the like judgment as in an action originally commenced against the legal representative.

70. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may, notwithstanding, be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued, upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree; and if in any such suit the wife shall sue or defend by a vakeel appointed by her when sole, such vakeel shall have authority to continue the action or defence, unless such authority be countermanded by the husband, and the vakeel changed by authority of the Court.

71. The bankruptcy or insolvency of the plaintiff in any suit which the assignees might maintain for the benefit of the creditors shall not be a valid objection to the continuance of such suit, unless the assignees shall decline to continue the suit, and give security for the costs thereof, within such reasonable time as the Judge may order; but the proceedings may be stayed until such election is made; and in case the assignees neglect or refuse to continue the suit, and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, object to bankruptcy or insolvency as a reason for abating the suit.

72. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he supposes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the cause, he shall at the earliest opportunity deliver to the clerk or proper officer of the Court two notices in writing to the party in whose possession or power he supposes the document, writing, or other thing to be, calling upon him to produce the document, writing, or other thing, on the day on which he wishes the same to be produced; and one of such notices shall be retained by the officer, and the other shall be delivered by him to the bailiff or proper officer, to be served in the manner hereinafter mentioned:—

Of Notices to produce, and how they are to be served.

(1.) If the party on whom the notice is to be served shall have employed a vakeel to act for him in the cause, the notice shall be served on such vakeel, by delivering the

notice to him personally, or by leaving it at his office, or ordinary place of residence.

(2.) If the party shall not have employed a vakeel to act for him in the cause, and shall have his place of abode within eight miles from the Court-house by the nearest road, the notice shall be served on him by delivering it to him personally, or leaving it at his place of abode.

(3.) If the party shall not have employed a vakeel to act for him in the cause, and shall not have his place of abode within eight miles from the Court-house by the nearest road, but shall have entered in the book, to be kept for that purpose by the proper officer, the name and place of abode of some person residing within such distance of the Court-house on whom he may wish that all notices or process in the cause should be served on his behalf, the notice shall be served by delivering the same to such person, or by leaving it at his place of abode.

(4.) If the party shall not have employed a vakeel to act for him in the cause, and shall neither have his own place of abode within eight miles from the Court-house by the nearest road, nor shall have entered in the book, to be kept for that purpose, the name and place of abode of some person residing within such distance of the Court-house on whom he may wish that all notices or process in the cause should be served on his behalf, the notice shall in like manner be served by delivering the same to the party in person, or by leaving it at his place of abode; unless the notice be for some day subsequent to the first hearing of the cause, in which case it shall be sufficient service of the notice if it be fixed up in some conspicuous place in the office of the clerk or proper officer of the Court, and also in some conspicuous place of the Court-house.

Of the Appearance of the Parties, and Judgment by Default for Non-Appearance.

73. On the day in that behalf mentioned in the summons, and from day to day, if necessary, until the cause is called on, the parties shall be in attendance at the Court-house in person or by a vakeel of the Court duly empowered to represent them in all matters relating to the prosecution or defence of the action, as the case may be.

74. If, on the day fixed for the hearing of the cause, or any other day subsequent thereto, on which the cause may be called on, neither party appears, either in person or by a vakeel of the Court, when duly called upon by the proper officer of the Court, the cause shall be struck out, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules for the limitation of actions. If the plaintiff shall appear in person or by a vakeel, and the defendant shall not appear in person or by a vakeel, and it shall be proved to the satisfaction of the Judge that the summons was duly served, or if the defendant, having appeared in person or by a vakeel, shall refuse to answer to the claim of the plaintiff, then, and in any of these cases, the Judge shall pass judgment against him by default. And in like manner, if the defendant shall appear in person or by a vakeel, and the plaintiff shall not appear in person or by a vakeel, or, having appeared, shall refuse to state his claim or to answer any

Marriage of a female plaintiff or defendant not to abate the suit.

Bankruptcy or insolvency when not to abate the suit.

Two notices in writing to be delivered to the proper officer of the Court.

How the notice is to be served.

questions respecting the same that the Judge may think proper to put to him, then, and in any of these cases, the Judge shall pass judgment against the plaintiff by default.

75. When there are two or more plaintiffs, any one or more of them may

When there are several plaintiffs or defendants, each may authorise the other to appear for him.

be authorised to appear, plead, and act for the other or others of them; and in like manner, when there are two or more defendants, any one or more of them may be authorised to appear, plead, and act for the other or others of them; provided that the authority shall in all cases be in writing, and shall be filed with the proper officer of the Court. When so filed, it shall be as effectual to all intents and purposes as if the person so authorised to appear, plead, and act, were a vakeel of the Court.

76. Nothing in the preceding Article contained shall be taken to prevent any one of two or more plaintiffs or defendants from appearing for the other or others of them respectively, without any special authority, when already entitled by law so to do by reason of unity of interest in the matter in dispute, or otherwise howsoever.

77. If there are two or more plaintiffs, and one or more of them shall appear in person, or by vakeel, or by a co-plaintiff or co-plaintiffs duly

authorised or entitled as aforesaid, and the other or others of them shall not appear in person, or by vakeel, or by a co-plaintiff or co-plaintiffs duly authorised or entitled as aforesaid, it shall be competent to the Judge to proceed with the suit at the instance of the other plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants,

and one or more of them shall appear in person, or by vakeel, or by a co-defendant or co-defendants duly authorised or entitled as aforesaid, and the other or others of them shall not appear in person, or by vakeel, or by a co-defendant or co-defendants duly authorised or entitled as aforesaid, and if the plaintiff or plaintiffs shall consent to abandon the suit against the defendant or defendants who shall have appeared, and if judgment by default can be given against the defendant or defendants who shall not have appeared, without detriment to the rights or interests of the other defendant or defendants, judgment may be given by default against the defendant or defendants who shall have so failed to appear, upon such terms as to the costs of the other defendant or defendants, or otherwise, as to the Judge may seem proper; but if the plaintiff or plaintiffs shall not agree to abandon the suit against the defendant or defendants who shall have appeared, or if judgment cannot be given by default against the defendant or defendants who shall not have appeared, without detriment to the rights or interests of the defendant or defendants who shall have appeared, the Judge shall proceed with the cause to judgment, and shall, at the time of passing his judgment, give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in the circumstances of the case.

78. In all cases of judgment against a defendant by default, for non-appearance, he may apply, at any time before the same shall have been finally executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Judge that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the cause was called on for hearing, the Judge shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the cause. And in like manner, in all cases of judgment against a plaintiff by default for non-appearance, he may apply, within a reasonable time, for an order to set aside the judgment; and if it shall be proved to the satisfaction of the Judge that the plaintiff was prevented by any sufficient cause from appearing when the cause was called on for hearing, the Judge shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the cause. In all cases whatsoever of judgment by default, in which a Judge shall pass an order for setting aside the judgment, his order shall be final; but in all cases in which he shall reject an application to set aside a judgment by default, an appeal shall lie from his order refusing the application, to the tribunal to which his final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision.

When and how judgment by default may be set aside.

79. If it shall not be proved to the satisfaction of the Judge that the summons was duly served on the defendant in sufficient time to enable him to appear in person or by vakeel on the day fixed for the hearing of the cause, the Judge shall, at the option of the plaintiff, either postpone the cause to a future day, and grant him a second summons to the defendant, to be served in like manner as aforesaid, in continuation of the existing suit, or permit him to withdraw his suit; and if he shall elect to withdraw his suit, he shall be at liberty to institute a fresh suit for the same matter against the defendant in the same Court, or in any other Court of competent jurisdiction, at any time, unless precluded by the rules for the limitation of actions.

When the defendant has not been summoned in sufficient time, the plaintiff may apply for a new summons, or bring fresh suit.

for the hearing of the cause, the Judge shall, at the option of the plaintiff, either postpone the cause to a future day, and grant him a second summons to the defendant, to be served in like manner as aforesaid, in continuation of the existing suit, or permit him to withdraw his suit; and if he shall elect to withdraw his suit, he shall be at liberty to institute a fresh suit for the same matter against the defendant in the same Court, or in any other Court of competent jurisdiction, at any time, unless precluded by the rules for the limitation of actions.

Of the Examination of the Parties.

80. In all suits in which both the parties appear in person or by a vakeel before the Judge, they or their vakeels may be examined orally by the Judge, and it shall be incumbent on them respectively to answer such questions in regard to the suit as he may think proper to put to them.

Examination of the parties or their vakeels.

81. If any of the parties shall appear by a vakeel of the Court, and such vakeel shall refuse, or be unable to answer any material question relating to the case, which the Judge is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Judge shall postpone the hearing of the cause to a future day, and direct that the party whose vakeel may have refused, or been unable to

Consequence of refusal or inability of vakeel to answer.

answer as aforesaid, shall attend in person on such day, and shall pay the costs of the opposite party; and if the party so directed to attend shall fail to appear in person on the day to be so appointed, the Judge may pass judgment against him, as in case of default, or give such other order in relation to the cause as he may deem proper in the circumstances of the case.

Of the Production of Documents.

82. The parties, or their vakeels, shall bring with them, and have in readiness at the first hearing of the cause, to be produced when called upon by the Court, all their documentary evidence of every description, and all documents, writings, or other things which may have been specified in any notice to produce which may have been served on them respectively within a reasonable time before the hearing of the cause; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production of the document at the first hearing.

83. All exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any exhibits which it may consider irrelevant, or otherwise inadmissible.

84. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under the existing Regulations of the Bengal Code, or Acts of the Council of India, it shall not be received in evidence if unstamped, or not sufficiently stamped, until the whole or the deficiency (as the case may be) of the stamp duty, and the penalty required by the existing Regulations of the Bengal Code or Acts of the Council of India, shall have been paid to the clerk or proper officer of the Court.

85. Such officer shall, upon payment to him of the whole, or of the deficiency (as the case may be) of the stamp duty, payable upon or in respect of such document, and of the penalty required by the Regulations of the Bengal Code or Acts of the Council of India, give a receipt for the amount of the duty or deficiency which the Judge shall determine to be payable, and also of the penalty; and thereupon such document shall be admissible in evidence, saving all just exceptions on other grounds; and an entry of the fact of such payment, and of the amount thereof, shall be made in a book kept by such officer; and such officer shall at the end of every month duly make a return to the collector of revenue of the Zillah of the monies (if any) which he has so received by way of duty or penalty, distinguishing between such monies, and stating the number and title of the cause and the names of the parties from whom he received such monies, and the date, if any, and description of the document, for the purpose of identifying the same; and he shall pay over the said monies to the collector of revenue, or to such person as he may appoint or authorise to receive the same; and

the collector of revenue, or other proper authority, shall, upon production of the receipt hereinbefore mentioned, cause such documents to be stamped with the proper stamp or stamps in respect of the sums so paid as aforesaid.

86. When an exhibit is received by the Court, and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record.

87. When an exhibit is rejected by the Court, it shall be endorsed in the manner specified in the last preceding Article, with the addition of the word "rejected," and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who produced it, unless the Court shall think proper, for special reasons, to reclaim it; and in all cases in which a rejected exhibit is returned, a certified copy of the exhibit and the endorsement shall be kept by the Court.

88. When the time for appealing has elapsed, or, in case the suit has been appealed, then after the appeal has been finally disposed of, either party shall be entitled, on application to the Court in which the exhibit may be, to receive back any document produced by him in the suit, unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice, as on suspicion of forgery.

89. Any exhibit may be returned before the time mentioned in the last preceding Article if the Judge of the Court in which the document may happen to be shall think proper, for special reasons, to order its return.

90. In all cases in which a document once received by a Court of Justice and admitted in evidence is restored, a copy, properly certified, shall be substituted for it in the record of the suit, and a receipt shall be given by the party receiving it in a separate receipt book kept for the purpose.

91. Any Civil Court may, of its own accord, or upon the application of any of the parties to a suit, send for, either from its own records, or from any other public office or Court, the record of any other suit or case, and inspect the same, when the inspection of such record or any part of it shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Of the Settlement of Issues.

92. If, in the course of the oral examination of the parties or their vakeels, it shall appear that they are not at issue upon any question of law or fact, the Court may at once give judgment; and if it shall appear that they are at issue on some question of law or fact, the Judge, after he shall have satisfied himself by such oral examination of the parties or

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their vakeels on what questions of law or fact they are really at issue, will proceed to frame and record the issues of law and fact on which the right decision of the case may appear to him to depend.

93. For the purpose of assisting the Judge in framing the issues, the parties or their vakeels may tender at the first hearing of the cause written statements of their respective cases, which statements the Judge shall receive and peruse, and put on the record; but he may, nevertheless, frame the issues from the allegations of fact which he collects from the oral examinations, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements so tendered by the parties or their vakeels.

94. No such written statement shall be received after the first hearing of the cause, unless called for by the Judge under the power hereinafter contained.

No statement to be taken hereafter unless called for by the Judge.

95. It shall be competent to the Judge, at any time before final judgment, to call for a written statement, or an additional written statement, from any of the parties, for the purpose of assisting him to frame or amend the issues.

Judge may at any time call for a written statement.

96. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove if called upon by the Court.

How written statements are to be framed.

97. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court, is argumentative or unnecessarily prolix, or that it contains matter irrelevant to the suit, the Judge may reject the same; and it shall not be competent to a party, whose written statement has been rejected for any of these causes, to present another written statement, unless it shall be expressly called for by the Court. If the Judge think proper, he may, instead of absolutely rejecting the written statement, receive and record the same, after he shall have struck out all such parts of the written statement as he may consider to be argumentative, unnecessary, or irrelevant; and such parts of any written statement as may be so struck out by the Judge shall not be allowed in the costs ordered to be paid by the opposite party, if costs be decreed against him. It shall also be competent to the Judge to impose upon the party from whose written statement he shall

Or expunge irrelevant matter, he shall have struck out all such parts of the written statement as he may consider to be argumentative, unnecessary, or irrelevant; and such parts of any written statement as may be so struck out by the Judge shall not be allowed in the costs ordered to be paid by the opposite party, if costs be decreed against him. It shall also be competent to the Judge to impose upon the party from whose written statement he shall see fit to strike out any part, as being argumentative, unnecessary, or irrelevant, a fine not exceeding fifty Rupees.

And fine party presenting it.

98. If the Judge shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court, or without the reading of some document not produced by any of such persons, he may adjourn the framing of the issues to a future day, and may compel the attendance of such person or the production of the document by the person in whose hands it may be, by subpoena or other suitable process.

Judge may call for a person whom he thinks it proper to examine before framing the issues.

99. At any time before the decision of the case, the Judge may amend the issues on such terms as to him shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues.

100. If either party is dissatisfied with the issues as finally framed by the Court, such party may appeal upon that ground after the decision of the case.

Appeal.

Of Issues by Agreement of Parties.

101. When the parties to a suit are agreed as to the question or questions of fact, or of law or equity, to be decided between them, they may, at any time after the issue of the summons, state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Judge in the affirmative or the negative of such issue, a sum of money fixed by the parties, or to be ascertained by the Judge upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that one or more of the parties shall do or perform some particular legal act or acts, or shall refrain from doing or performing some particular act or acts specified in the agreement, and having reference to the matter in dispute, either with or without the costs of the suit.

102. If the Judge shall be satisfied, after an examination of the parties, or their vakeels, or taking such evidence as he may deem proper, that the agreement was duly executed by the parties, and that the parties have a *bonâ fide* interest in the decision of such question or questions, and that the same is or are fit to be tried or decided, he may proceed to record and try the same, and deliver his finding or opinion thereon, in the same manner as if the issue had been framed by himself in an ordinary suit, and may, upon his finding or deciding in such issue, give judgment for the sum so fixed by the parties, or so ascertained as aforesaid or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed, in the same way as if the judgment had been pronounced in a contested suit.

The Judge, if satisfied that the agreement was executed *bonâ fide*, may decree accordingly.

115. If the person required to attend be resi-

How a summons on a witness who resides in another jurisdiction is to be served.

dent within the jurisdiction of any other Court than that in which the suit is pending, whether such Court be within the said Presidency or not, summons shall be transmitted by the clerk or proper officer of the Court in which the suit is pending, to the clerk or proper officer of the Court within whose jurisdiction the person required to attend may reside; and the clerk or proper officer of the last-mentioned Court shall, upon receipt thereof, deliver the same to the bailiff or other proper officer of his own Court, to be served in the manner above directed; and upon the return of the summons by the serving officer, it shall be transmitted to the clerk or proper officer of the Court from whence it originally issued.

116. If any person for whose attendance, either to give evidence or to produce a document, a summons shall be issued, cannot be served in either

When a witness absconds, his property may be attached. of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness absconds or keeps out of the way, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon or near to his house or place of abode; and if such person shall not attend at the time and place to be named in such proclamation, his property (real and personal), to such amount as the Court shall deem reasonable (but subject to the same limitation as to the articles exempt from attachment, as in case of attachment for arrears of rent), shall be liable, under an order of the Court, to attachment and sale.

117. The cost of the attachment shall be borne in the first instance by the party applying for it, and the Court issuing the summons and attachment

How the Court is to proceed with the witness on his appearance. shall not proceed to sale of the property if the witness shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of a summons, and that he had not notice of the proclamation in time to attend at the time and place named therein. Upon the appearance of such witness the Court shall make such order in regard to the costs of the attachment as it shall deem fit. If the witness appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of a summons, and that he had not such a notice of the proclamation as aforesaid, it shall be in the discretion of the Court to order the property attached, or any part thereof, to be forfeited and sold for the purpose of satisfying all costs incurred in consequence of such default, or absconding, or keeping out of the way, and any fine which the Court may deem fit to impose upon the witness under the provisions of Article 2 Chapter VI., or the Court may order the property to be released from the attachment upon payment of such costs and fine as aforesaid.

Of the Examination of Parties as Witnesses.

118. When a party to a suit appears in person at any hearing of the cause, he may be examined.

mined as a witness either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

119. If any party to the suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his vakeel, make a

Special application to be made for the examination of a party as a witness.

special application to the Court for an order that the party do attend, and shall show, to the satisfaction of the Court, sufficient grounds in support of such application, otherwise a summons shall not be issued.

120. The Court, if it think fit so to do, may, before making such order, cause notice to be given to the party or his vakeel, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient cause, enlarge the time for such application.

The Court may first issue a notice to show cause.

121. In support of the cause shown, the Court shall receive any declaration in writing of the party, if signed by him and delivered into the Court by himself or his vakeel.

122. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

If no sufficient cause be shown, summons to issue.

Attendance of Witnesses, and consequence of Non-attendance.

123. Any person who shall be summoned to appear and give evidence in a cause shall be bound to attend at the time and place named for that purpose.

124. If any witness, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in

Consequences of non-attendance by a witness not a party to the suit. Article 112 of this Chapter, shall, without lawful excuse, fail to comply with such summons, the Court may issue an order to the bailiff or other proper officer to apprehend and bring the witness before the Court. If any such person abscond or keep out of the way, so that he cannot be seized or brought before the Court, his property shall be liable to attachment and sale in the same manner as is provided in Article 116 of this Chapter with respect to a witness on whom the service of a summons cannot be effected.

125. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to

Consequences of refusal to give evidence. subscribe his deposition as hereinafter required, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the mean time, consent to give his evidence, or to sign his deposition, or to pro-

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duce the document; after which, in the event of his persisting in his refusal, the Court may proceed to deal with him according to the provisions of Article 2 Chapter VI.

126. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to

comply with such order, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, as in case of default, or give such other order in relation to the cause as the Court may deem proper in the circumstances of the case.

127. Any person present in Court, whether a party or not, may be called upon by the Court to give evidence, and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be dealt with for any refusal to obey the order of the Court.

When and how Witnesses are to be Examined.

128. On the day appointed for the hearing or trial of the cause, or on some other day to which the hearing or trial may be adjourned, the evidence of the attending witnesses shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. In cases in which an appeal may lie to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit, or their vakeels. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any party or his vakeel shall require it. If any question put to a witness be objected to by either of the parties, or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanour of the witness while under

Witnesses must be examined at the hearing of the cause in open Court in the presence of the Judge.

examination. In cases where an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witness in writing at length; but the Judge shall make a short memorandum of the substance of what each witness may have deposed at the trial of the cause, and such memorandum shall be written and signed with his own hand, and shall form part of the record.

129. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court

But a witness may for special cause be examined immediately. why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party, at any time after summons issued, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the other party if the day be fixed in his absence. The witness shall be examined, and his deposition shall be taken down in writing in the manner hereinafter prescribed; and the deposition so taken down may be read in evidence at the trial, or any hearing of the cause.

130. All witnesses shall be examined without oath or affirmation, or any warning as a necessary preliminary to their giving evidence, and they shall, upon such examination, be bound to speak the truth as they would have been bound by an oath, or a sanction tantamount to an oath.

Of Commissions to examine absent Witnesses, and make local Inquiries.

131. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Judge to be personally examined, or is a person exempted by law absolutely, or at the discretion of the Court, by reason of rank, sex, or other special cause, from personal appearance in Court, the Court may, on the application of any of the parties to the suit, order a Commission to issue for the examination of the witness on interrogatories or otherwise, and may, by the same or any subsequent order or orders, give all such directions for taking such examinations, as well within the jurisdiction of the Court wherein the suit shall be pending as without, as may appear reasonable and just. If the witness

Where the witness is resident within the Court's jurisdiction, he shall be examined within the Court's jurisdiction.

Where the witness is beyond the Court's jurisdiction, the Commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Judge may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, the Commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Judge may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, the Commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Judge may think proper to appoint.

Where the witness is beyond the Court's jurisdiction, the Commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Judge may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, the Commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Judge may think proper to appoint.

Her Majesty's Supreme Court, but within its general jurisdiction, the Commission shall ordinarily be issued to the Court within whose particular jurisdiction the witness may reside, or which can

most conveniently execute the same; but under special circumstances, which may appear to render a different course expedient, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

132. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes at Calcutta, but may, under special circumstances, be directed to any other person or persons whom the Court issuing the Commission may think proper to appoint.

133. Where the evidence is required of a witness who is resident at some place beyond the general jurisdiction of the Sudder Court, whether such place be within the said Presidency or within the territories in the possession of the East India Company or not, the application for a Commission to examine the witness must in all cases be made to the Sudder Court. If the suit in which the evidence of the witness is required be pending in some other Court than the Sudder Court, the application must be accompanied by a certificate from the Court in which the suit is pending, that the application is made with its permission. In all cases of an application to the Sudder Court for a Commission to examine a witness, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint; and whenever a Commission is issued from the Sudder Court for examination of a witness in a suit pending in any other Court, the Commission shall be made returnable to the Court in which the suit is pending.

134. After the Commission has been duly executed, it shall be returned, together with the deposition or depositions of the witness or witnesses who may have been examined thereunder, to the Court out of which the Commission issued (except as in the last preceding Article mentioned), unless otherwise directed by the order for issuing the Commission, and then it shall be returned in terms of such order, and the Commission and the return thereto, and the deposition or depositions of the witness or witnesses who may have been examined under such Commission, shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by law absolutely, or at the discretion of the Court, from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorise the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same; and after the witness shall be produced,

When depositions may be read in evidence.

and shall have delivered his testimony, it shall be lawful for the Court, at its discretion, to authorise the reading of the deposition. And all depositions taken under any Commission which may be issued as aforesaid, being duly certified, may be read, at the discretion of the Court, without proof of the signature to such certificate.

135. In suits regarding lands or houses, or their limits or boundaries, in which the Court may deem a local investigation

to be requisite or proper, for the purpose of elucidating the matters in dispute, the Court may issue a Commission to any person whom it may think proper to appoint, directing him to make such investigation, and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine, not only such witnesses as may be produced to him by the parties or any of them, but any other person or persons whom he may think proper to call upon to give evidence in the matters referred to him; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the Commissioner during the investigation of the matters committed to him, shall be subject to the like disadvantages, penalties, and punishments, by orders made by the Commissioner, as they would incur for the same offences in suits tried before the Court; provided that the Commissioner shall report the order to the Court, and obtain its consent thereto, which is to be signified by the Judge's signing the order. The Commissioner shall, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions of such witnesses as he may have examined, shall return the depositions, together with his report in writing, subscribed with his name, to the Court issuing the Commission. The report and depositions shall be taken as evidence in the cause, and shall form part of the record; but it shall be competent to the Court, or to the parties, or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him, or mentioned in his report, or the manner in which he may have conducted the investigation. The Court may order such sum to be paid to the Commissioner as may be thought reasonable for his trouble and expenses, and the sum so ordered to be paid shall be considered as costs in the cause, unless the Court shall otherwise direct.

The report of the Commissioner to be taken as evidence in the cause, but he may be examined in person.

136. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Judge to appoint any person whom he may think proper to be a Commissioner, for the purpose of making such investigation or adjustment, and to direct that the parties, or their attorneys or vakeels, shall attend upon the Commissioner during such investigation or adjustment. In all such cases the Judge shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information

A Commissioner may be appointed to investigate and adjust accounts.

and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner are to be received in evidence in the case, unless the Judge may have reason to be dissatisfied with them; in which case he will make such further inquiry as may be requisite, and will pass such ultimate judgment or order as may appear to him to be right and proper in the circumstances of the case.

Of Judgment and Decree.

137. When the exhibits have been perused and considered, and the witnesses examined, and the parties have been heard in person, or by their respective vakeels, the Court shall pronounce its judgment, either immediately, or on some future day, of which due notice shall be given to the parties or their vakeels.

138. In any suit concerning the succession or rights of all the heirs to right of inheritance to any land, zemindary, talook, house, or other real property, where more persons than one would, by the Hindoo or Mahomedan law, be entitled to a portion of the estate, the decree shall adjudge the property, as far as may be practicable, among all the heirs, in the proportions to which they may be respectively entitled.

139. In all suits in which issues have been framed, the Judge shall state his finding or decision on each separate issue.

140. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Judge shall have full power to award and apportion costs in any manner he may deem proper, except in so far as is herein otherwise provided.

141. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree that may have been passed therein, such as the expense of stamp, summoning the defendants, fees of vakeels, or copies of documents required to be made, and subsistence money to peons or other persons employed in serving processes, charges of witnesses, and sums awarded to Commissioners either in taking evidence or in local investigations.

142. The judgment shall be pronounced in open Court, and in all Courts it shall be imperative on the Judge to state the reasons for his judgment at the time of pronouncing the same. The judgment shall in all cases be written out and signed by the Judge. The judgment shall be written out in the vernacular language of the Judge, except when the Judge, being a native of the country, and sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, may prefer to write his judgment in English, and in that case the judgment may be written out in the English language. Whenever the

judgment is written out in any other language than that which is in ordinary use in the proceedings before the Court, the judgment shall be translated into such language so being in ordinary use in the Court, and the translation shall also be signed by the Judge.

143. The decree shall bear date the day on which the judgment was passed, and shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim as stated in the register of the suit, the title of every exhibit produced in the cause, and the names of any witnesses who may have been examined, and a distinct statement of the issues when any may have been framed. It shall also contain an exact copy of the ordering part of the judgment, or a translation thereof, in the language in ordinary use in proceedings before the Court, and shall be sealed with the seal of the Court, and signed by the Judge.

144. Copies of the decree shall be furnished to the parties or their vakeels on application to the clerk or other proper officer of the Court.

145. When a native officer or soldier in the service of the Government is a party to a suit, and is not present at the time of its decision, an authenticated copy of the decree shall be transmitted by the Court to the commanding officer of the corps or detachment to which such native officer or soldier shall belong, for the purpose of its being communicated to him.

Chapter V.

EXECUTION OR ENFORCEMENT OF DECREES.

1. If the decree be for land or other immovable property, the same shall be delivered over to the party to whom the same may have been adjudged; if the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by imprisonment of the party adjudged to perform the same, or by attaching his or their property, and keeping the same under sequestration until further order of the Court, or by both imprisonment and sequestration if necessary; if the decree be for money, it shall be enforced by the imprisonment of the party against whom the same may have been adjudged, or the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant.

Application for Execution.

2. The application for execution of a decree shall be made to the clerk or other proper officer of the Court by the applicant in person, or through his vakeel in the cause, or some other vakeel duly appointed to act for him in that behalf, in manner hereinbefore mentioned.

3. If any person in whose favour a decree has

If the person by or against whom the decree has been obtained shall die or become bankrupt or insolvent, application for execution may be made by or against his legal representative.

been passed shall die, or become bankrupt or insolvent after such decree, and before execution shall be fully had thereon, application for execution of the decree may be made

by or on behalf of the legal representative or representatives, or the assignee or assignees, of the person so dying or becoming bankrupt or insolvent as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly. And, in like manner, if any person against whom a decree has been passed shall die after such decree, and before execution has been fully had thereon, application for execution thereof may be made against the legal representative or representatives, or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

4. The application for execution of a decree shall be accompanied with the following particulars distinctly written in the language in ordinary use in proceedings before the Court, namely the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, if the suit were for money; the amount of costs, if any were awarded; the name of the person or persons against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person or persons named, or attachment of his or their property.

5. When the application is for an attachment of the defendant's land or other immoveable property, it shall also be accompanied with an inventory or list of such property, containing such a description of each item thereof as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief, and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government, or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the register of the Collector's office, specifying the jummal of such estate, and the names and shares of the registered proprietors.

6. Where the application is for an attachment of the defendant's moveable estate, or any part thereof, or of debts or money belonging to him, it may also be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description of each item thereof; or the plaintiff may apply for a general attachment of the defendant's moveable estate, debts, and money, wheresoever the same can be found, to the amount of the judgment and costs.

The application for an attachment of moveable property may be special or general.

And where the property is an estate paying revenue to Government, or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the register of the Collector's office, specifying the jummal of such estate, and the names and shares of the registered proprietors.

7. The clerk or other proper officer of the Court,

Duty of the officer on receiving the application. on receiving any application for execution of a decree, accompanied with the particulars above mentioned, or such of them as may be applicable to the case, shall compare the same with the original decree contained in the record of the cause; and, if they shall be found to correspond therewith, shall enter a note of the application, and the date on which it was made, in the register of the suit. If the particulars shall not be found to correspond with the original decree, the clerk or other proper officer shall either return them for correction to the person making the application, or shall, with the consent of such person, make the necessary correction himself.

Measures required in certain Cases preliminary to the Issue of the Warrant.

8. If an interval of more than one year shall

In certain special cases, the defendant may be called on to show cause. have elapsed between the date of the decree and the application for its execution, or if the enforcement

of the decree be solicited by or against individuals, being heirs or representatives of the original parties in the suit, or against one only of several individuals equally affected by the decree, or if it shall appear that the matter in dispute has been adjusted by the parties subsequently to the decree, either by the voluntary surrender of the thing or property adjudged, or by the payment of the sum decreed, either in whole or in part, or by giving security for the same, or entering into an instalment bond or otherwise, or where the decree is for the delivery of a specific moveable, or for the specific performance of a contract, or any other particular act, and the application is for the enforcement thereof by imprisonment of the party adjudged to deliver or perform the same, the clerk or other proper officer of the Court shall, instead of proceeding to the immediate enforcement of the decree, submit the application for execution thereof to the Judge; and it shall be competent to the Judge, if he shall think proper, to issue a notice to the party against whom execution may be sued for, requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. If, upon such notice, the party shall not attend in person or by vakeel, or shall not show sufficient cause, to the satisfaction of the Court, why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by vakeel, and shall offer any objection to the enforcement of the decree, the Court shall issue such order as in the circumstances of the case may appear to be just and proper.

9. Where the application is for a general attachment of the moveable

Application for a general attachment of moveable estate of the defendant, the clerk or other proper officer of the Court shall submit the application to the Judge, and it shall be competent to the Judge, if he shall think proper (and if the plaintiff shall in person, or by his agent, give security, to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person or persons than the defendant), to direct that an order do issue for the

the Judge, and it shall be competent to the Judge, if he shall think proper (and if the plaintiff shall in person, or by his agent, give security, to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person or persons than the defendant), to direct that an order do issue for the

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attachment of the defendant's moveable property wherever the same may be found, to the amount of the judgment and costs, or such other sum as may be specified in such order.

10. Before granting the order for a general attachment, or upon the application of the plaintiff at any time after judgment, and before complete execution of the decree, the Judge may summon and examine the defendant as to his means of payment.

The Judge may summon and examine the defendant as to his means of satisfying the judgment, in the same way as if he were not a party to the suit.

11. If the decree be for a zemindary, talook, land, house, or other real estate or property, or any share therein, and the judgment shall have been passed against the defendant or defendants by default, the clerk or other proper officer of the Court, before proceeding to execute the decree, shall issue a proclamation, calling upon all persons having any claim to the property in question to appear on a certain day, to be specified in the proclamation, and which shall not be later than fifteen days from the date of the application for the execution of the decree, either in person or by an attorney or vakeel, and be prepared to state their claims to the Court, and support them by sufficient evidence.

If the judgment be by default, and for land, a proclamation for claimants to be issued before execution.

12. The proclamation shall be read aloud by the bailiff or other proper officer in some public place within the limits of or adjacent to the zemindary, talook, land, house, or other real estate or property, for which, or a share in which, the judgment by default may have been given, and a copy thereof shall be fixed up in some conspicuous part of the Court-house; and if the judgment by default shall have been given by any Court subordinate to the Zillah Judge, a copy of the proclamation shall also be fixed up in the Court of the Zillah Judge, as well as in the Court of the particular Judge in whose Court the judgment may have been given.

How the proclamation is to be published.

13. If no claimant to the property shall appear on the day fixed in the proclamation, either in person or by vakeel, to offer any objection to the execution of the decree, the Court shall order the decree to be executed, in the same manner as if the judgment had not been given by default.

14. If, on the day fixed in the proclamation, any claimant to the property shall appear in person or by vakeel, and shall offer any objection to the enforcement of the decree, the Court shall proceed forthwith to investigate the same, in the like manner and with the like powers as if the claimant had been originally made a defendant to the suit, but shall restrict its inquiry to the fact of possession only; and if it shall appear to the satisfaction of the Court that the zemindary, talook, land, house, or other estate or property mentioned in the decree was not in the possession of the party against whom the judgment by default may have been given, nor in the occupancy of ryots, or cultivators, or other persons paying rent to him at the date of the commencement of the suit, the Judge shall pass an order to

stay execution of the decree, and shall call upon the party applying for execution thereof to show cause why the judgment should not be set aside and cancelled. And if the party shall fail to show such cause to the satisfaction of the Court, the Court shall forthwith cancel the said judgment, and an entry of the cancellation shall be made in the register of the suit. If it shall appear to the satisfaction of the Court that the zemindary, talook, land, house, or other estate or property mentioned in the decree, was in the possession of the party against whom the judgment by default was given, or in the occupancy of ryots, or cultivators, or other persons paying rent to him at the date of the commencement of the suit, it shall direct the decree to be executed in the same way as if the judgment had not been by default. The decision of the Court in the investigation mentioned in this Article shall not be subject to appeal, but the party against whom the same may be given shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

Issue of the Warrant.

15. When the clerk or other proper officer of the Court is satisfied as to the particulars above referred to, and all necessary preliminary measures have been taken when any such are required, he shall forthwith prepare and issue, under the seal of the Court, the proper warrants for the execution of the decree.

16. Every warrant for execution of decree shall bear date on the day on which the same shall be issued, and shall be sealed with the seal of the Court, and delivered to the bailiff or other proper officer. A day shall be specified at the bottom of the warrant on or before which it must be executed, and the bailiff or other proper officer shall in all cases endorse upon the order the day and the manner in which it was executed, and shall return it with such endorsement to the Court from which it issued.

Of the Execution of Decrees for Immoveable Property.

17. If the decree be for a house or other immoveable property not in the occupancy of ryots or other persons entitled to occupy the same, delivery thereof shall be made by putting the party to whom the house or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

18. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, delivery thereof shall be made by erecting a pole upon some place within or adjacent to the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, at some convenient place or places, the substance of the decree in regard to the property.

19. If the decree shall be for the possession

Obstruction to execution of a zemindary, talook, land, house, or other real estate or property, or share therein, and the party or parties in whose favour the same shall have been adjudged shall be resisted or obstructed by any person or persons in obtaining effectual possession thereof, and shall make an application to the Court, either in person or by vakeel, at any time within one month from the date of the officer's return to the warrant for execution of the decree, the Court shall fix a day for investigating into the matter of his complaint; and if reasonable ground shall be shown, to the satisfaction of the Court, for believing that the obstruction or resistance in question has been occasioned by the defendant or defendants, or by some other person or persons at his or their instigation, the Court shall issue a summons to the defendant or defendants, calling upon him or them to appear on the day appointed for the investigation, to attend and give evidence.

Defendant may be summoned if suspected of implecation.

the obstruction or resistance in question has been occasioned by the defendant or defendants, or by some other person or persons at his or their instigation, the Court shall issue a summons to the defendant or defendants, calling upon him or them to appear on the day appointed for the investigation, to attend and give evidence.

20. In all cases in which a summons shall be

Court how to proceed if he cannot be found or fails to attend.

shall be served in the manner hereinbefore prescribed for the service of a summons upon a witness, and if he cannot be served in either of the ways specified in Article 112 of Chapter IV., or if, after being served, he shall, without lawful excuse, fail to comply with such summons, or, attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, he shall be liable to be dealt with in the same way as if he were not a party to the suit, and as any other person would be dealt with in the like circumstances under Articles 116, 124, and 125 of Chapter IV., respectively.

21. If the Court shall be satisfied, after such

How defendant may be dealt with if he persists in obstructing the plaintiff.

investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was caused or occasioned by the defendant or defendants, or by any other person or persons at his or their instigation, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or defendants, or some person or persons at his or their instigation, the Court may, without prejudice to the operation of the provisions of Article 2 Chapter IV., commit the defendant or defendants to close custody until further orders.

22. If it shall appear to the satisfaction of the

Obstruction by a *bonâ fide* claimant.

Court that the resistance or obstruction to the execution of the decree has been occasioned by any person or persons claiming *bonâ fide* to be in possession of the estate or property on his own account, or on account of some other person or persons than the defendant or defendants to the suit, the Court shall, without prejudice to the operation of the provisions of Article 2 Chapter VI., proceed to investigate the claim in the same manner and with the like powers as if the claimant had been made originally a defendant to the suit, and shall pass such order for

staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case; and the order of the Court shall not be subject to appeal, but the party against whom the same may be pronounced shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

Of the Execution of Decrees for Money by Attachment of Property.

23. If the decree be for money, and the person What property may be or persons applying for attached in execution of execution thereof shall decree.

desire that the amount shall be levied from the estate and property of the person or persons against whom the same may have been pronounced, the Court shall cause the attachment of any lands, houses, goods, chattels, effects, money, bank notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any railway, banking, or other public company or corporation, or other property whatsoever, moveable or immovable, belonging to the defendant or defendants, and whether the same be held in his or their own name or names, or by another person or other persons in trust for him or them, or on his or their behalf, to the amount or value of the sum decreed, and costs, or to such extent as may be deemed necessary for the purpose of securing the satisfaction and payment of such amount and costs.

24. Where the property shall consist of goods,

The attachment is to be made by seizure when the property is goods and chattels; the attachment shall be made by actual seizure, and the bailiff or other officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

Where the property shall consist of lands, houses, or other immovable estate, the attachment may also

be made by actual seizure, but it shall be in the option of the Court, if it shall think proper, instead of directing its officer to make seizure and assume possession of the property, to issue a written order prohibiting the sale, mortgage, gift, or other transfer thereof, and all persons from receiving or taking the same by purchase, gift, or otherwise howsoever, and also prohibiting all ryots or cultivators, and other tenants and occupiers of the land, from paying their rents to any person or persons whomsoever, until the further order of the Court; with permission in the mean time to pay their rents into Court, to the treasurer or other proper officer who may be authorised to receive or grant receipts for the same. Where the

By prohibitory order only when it is debts. property shall consist in whole or in part of debts,

or of shares in any railway, banking, or other public company or corporation, the attachment shall be made in all cases by a written order of the Court, prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person or persons whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiv-

ing payment of any dividends thereof until such

By notice when it is money in deposit in a Court of Justice or Government office.

Where the property shall consist in whole or in part of money standing in the name of the defendant, or to his account, and in deposit in any Court of Justice or office of Government, or of interest on Government paper, the attachment shall be made by a notice to such Court or office, requesting that the money or interest may be held subject to the further orders of the Court by which the notice may be issued.

25. In the case of lands, houses, or other im-

When the attachment is by prohibitory order, how the order is to be made known.

moveable property, the written order shall be read aloud at some place on or adjacent to the same lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and also in the cutcherry of the Collector of the zillah in which the lands, houses, or other immoveable property may be situated. In the case of debts, the written order shall also be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any railway, banking, or other public company or corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be sent to the manager, secretary, or other proper officer of the company.

26. After any attachment shall have been

All private alienations of property under attachment to be null and void.

made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property or shares attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends to the defendant or defendants, during the continuance of the attachment, shall be null and void.

27. In all cases of attachment under the pre-

The Court may direct money or bank notes to be paid to the plaintiff;

ceding Articles, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank notes, or a sufficient part thereof, shall be paid over and delivered to the party or parties applying for execution of the

Or other attached property to be made over to him at a reasonable price;

decree; or that any part of the property so attached as may not consist of money or bank notes, so far as may be necessary for the satisfaction of the decree, shall be transferred and delivered to the party or parties applying for execution of the decree, if he or they shall be disposed to accept the same in satisfaction or part satisfaction of the amount decreed and costs, at the market value or such price as the Court may deem fair and reasonable; or that any part of the property so attach-

ed shall be sold, and that the money which may be realised by such sale, or a sufficient part thereof, shall be paid to such party or parties.

28. Where the property attached shall consist

Where the property consists of debts or real estate a manager may be appointed.

of debts due and owing to the party who may be answerable for the amount of the decree; or of any lands, houses, or other immoveable estate or property, it shall further be competent to the Court to appoint a manager of the said estate or property, with power to sue for and compound for the debts, and to collect the rents or other receipts and profits, or to raise money by mortgage or conditional sale of the land or other immoveable property, and to make and execute such deeds or instruments in writing as may be necessary or requisite for the purpose, and to pay and apply the same rents, profits, or receipts, or money so to be raised, towards the payment and satisfaction of the amount of the decree and costs; and in any case in which a manager shall be appointed, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

29. When full satisfaction shall be made of

Attachment to be released after full satisfaction of the decree.

the amount decreed and costs, with all charges and expenses which may be incurred by the said attachment, or the same shall be otherwise paid and satisfied by the defendant or defendants, the attachment shall be forthwith released; and if the defendant or defendants shall desire that due intimation shall be given of such release, the order for the release of the attachment shall, at his or their expense, be proclaimed and intimated in the same manner as hereinbefore prescribed for the proclamation of the attachment.

Of Claims to Attached Property.

30. In the event of any claim being preferred

How claims and objections to sale of attached property are to be investigated.

to or objection offered against the sale of lands, or any other real or personal property which may have been attached in execution of a decree, or under and by virtue of any order for sequestration which may be passed before judgment, as not belonging to the defendant or defendants, and consequently not liable to be sold in execution of a decree against him or them, the Court shall, subject to the proviso contained in the next succeeding Article, proceed to investigate the same in the same manner, and with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant or defendants as are contained in Articles 19 and 20 of this Chapter. And if it shall appear to the satisfaction of the Court that the land or other real or personal property so advertised to be sold in execution of the decree was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots, or cultivators, or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person or persons, the Judge shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other

real or personal property advertised to be sold in execution of the decree was in possession of the party against whom execution is sought, as and for his own property, and not for or on account of any other person or persons, or was in the possession of some other person in trust for him, or in the occupancy of ryots, or cultivators, or other persons paying rent to him at the time when the property was attached, the Court shall pass an order disallowing the claim, and shall direct the decree to be executed. The order which may be passed by the Court under this Article shall not be subject to appeal, but the party against whom the same may be given shall be at liberty to bring a suit to establish his right, at any time within one year from the date of the order.

31. The claim or objection shall in all cases be preferred or made at the earliest opportunity to the Court that shall have ordered the attachment; and if the property to which the claim or objection applies shall have been advertised for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Article; provided that, if it shall appear that the preferring or making the claim or objection has been designedly and unnecessarily delayed, with a view to obstruct the ends of justice, the sale shall not be postponed, and the claimant shall be left to prosecute his claim after the sale by a regular suit.

Of Sales in Execution of Decrees.

32. Sales in execution of decrees shall be conducted by the proper officer of the Court, and shall in all cases be made by public auction in manner hereinafter mentioned, except where the property to be sold shall consist of Government securities; and with respect to such securities, it shall be competent to the Court to authorise its officer, or any other person whom it may think proper to appoint, to sell and dispose of the same through a broker at the market rate of the day, and, if the endorsement of the party in whose name any such security is standing shall be required to transfer the same, to endorse such security thus—“A. B. by C. D. by order of” (as the case may be), and in the mean time, until such sale, to receive any interest which may become due thereon, and to sign receipts for the same; and any endorsement which shall be made as aforesaid shall be as effectual to pass the said securities, and to give a good title to the holder thereof, and any receipt which shall be signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or signed by the party himself or his constituted vakeel.

33. In all cases of intended sale, whether of moveable or immoveable property, in execution of any decree or other judicial process, where the property shall not consist of Government securities, and in all sales of Government securities, when the Court shall direct that the same be sold by public auction, a proclamation of the intended sale, with particulars of the time and place of sale, of the property to be sold, including the jumrah of the estate, when the proper-

ty to be sold is an estate paying revenue to Government, or any portion of any such estate, and of the amount for the recovery of which the sale is ordered, shall be made in the current language of the country, and at Calcutta it shall also be made in the English language, at least thirty days before the appointed day of sale, exclusive of the day of sale, and of the date on which the proclamation may be ordered. Such proclamation shall be made in Calcutta, in the mode that has been usual in the case of sales by the Sheriff, and at other places in the usual mode, by beat of drum on the spot where the property is attached; and a written notification to the same effect shall be affixed in some conspicuous place in the Court of the Judge who shall have ordered the sale, and also in the Court of the Zillah Judge, where the Judge who ordered the sale is subordinate to the Zillah Judge. When the attachment shall have taken place at some place beyond the local limits of the jurisdiction of the Supreme Court, the written notification shall also be affixed in some conspicuous place within the town or village in which the attachment may take place, and the cutcherry of the Collector, and also in the Court of the local Moonsiff.

34. In all cases of a public sale of property in execution of a decree, it shall be clearly explained to the bidders at the sale that nothing is guaranteed to them in the land or other property sold, beyond the rights and interests therein of the individuals answerable for the amount of the decree or other process in execution of which the sale is made.

35. The usual process for attachment and sale in such cases, when the property to be attached consists of goods, chattels, or other personal estate other than debts, may either be issued successively or simultaneously, as the Judge directing the sale may in each instance think proper; but no sale shall in any instance take place without a previous proclamation for the period specified in Article 33 of this Chapter; and any material irregularity in the sale which may be established on investigation to the satisfaction of the Court by whom the sale may have been ordered, shall be sufficient to invalidate the sale, provided that an application objecting to the sale on the ground of such irregularity be made to the Court by the party objecting thereto, either in person or by vakeel, within one month after the sale.

36. If no such application as is mentioned in the last preceding Article be made within one month after the sale, or if such application shall be made and the objection shall be disallowed, the Judge shall pass an order confirming the sale; and in like manner, if such application shall be made, and if the objection be allowed, the Judge shall pass an order setting aside the sale for irregularity. The order which may be passed in either case, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final, and the party against whom the same has been given shall be precluded from bringing a fresh suit for establishing his claim.

37. After the sale shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest, to all intents and purposes whatsoever, any law or practice to the contrary thereof notwithstanding.

38. Where the property sold shall consist of goods, chattels, or other personal estate, of which seizure has been made, the same shall also be delivered to the purchaser or purchasers thereof; and where it shall consist of lands, houses, or other immoveable property, the right, title, and interest of the defendant therein shall, as far as practicable, be delivered to the purchaser or purchasers thereof, by erecting a pole upon some place within or adjacent to the land or other immoveable property, and proclaiming by beat of drum, at some convenient place or places, to the occupants thereof, that the right, title, and interest of the defendant or defendants therein has been transferred to the purchaser or purchasers.

39. Whenever a public sale is set aside as invalid under Article 35 of this Chapter, or on any account whatever, the purchaser shall be entitled to receive back his purchase money on restoring any property delivered over to him, with or without interest, in such manner as it may appear proper to the Court to direct in each instance.

Of the Execution of Decrees by Imprisonment.

40. When a defendant under a decree is committed to prison in execution thereof, the Judge shall fix whatever monthly allowance he shall think sufficient for his subsistence, not exceeding — per day, which shall be supplied by the party at whose instance the decree may have been executed to the proper officer of the Court, or of the gaol where the defendant may be in custody, by monthly payments in advance, on or before the 1st day of each month; the first payment to be made on the day of imprisonment for such portion of the current month as may remain unexpired.

41. A defendant will be released at any time on the decree being fully satisfied, or at the request of the person or persons at whose instance he may have been imprisoned, or on such persons omitting to pay the allowance as above directed for the space of twenty-four hours after it has become due; and further, his imprisonment on account of the decree which occasioned it shall not in any case exceed two years.

42. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the decree, and shall be recoverable from his property under the ordinary rules; but the defendant shall not be detained in custody or arrested on account of such disbursements.

43. Any person in confinement under a decree who is not entitled to the benefit of any Act for the relief of insolvent or bankrupt debtors in India, may at any time procure his enlargement by making an application to the Judge to that effect, and furnishing in writing a full and fair account of all his property, of whatever nature, whether in expectancy or in possession, and whether held exclusively by himself, or jointly with others, or by others in trust for him, and of the places respectively where such property is to be found, and moreover assigning the whole of such property to such person as the Court may direct, or such part thereof as may be sufficient for the satisfaction of the decree. In such case the Judge shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and call on him within a reasonable period, to be fixed by the Judge, to make proof of any fraudulent concealment or misrepresentation made by the defendant; and, on his failing to make such proof within the period specified, shall cause the defendant to be set at liberty.

44. But if the plaintiff shall within the time specified, or at any subsequent period, prove to the satisfaction of the Judge that the defendant, for the purpose of procuring his enlargement without satisfying the decree, wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith, the Judge shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if he shall think proper, send the defendant to the Magistrate, to be dealt with according to the provisions of the Penal Code.

And he may be further dealt with criminally on account of his fraud.

45. A defendant once enlarged shall not again be imprisoned on account of the same decree except under the operation of the last preceding Article, but his property will continue liable, under the ordinary rules, to attachment and sale in satisfaction of the decree, until the same shall be fully made.

46. Whenever property is attached in execution of a decree, on the application of any person or persons, such person or persons shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Of the Enforcement of a Decree out of the Jurisdiction of the Court by which it was passed.

47. A decree or final order of any Civil Court within any part of the territories in the possession or under the Government of the East India Company which cannot be

The decrees of any Courts may be executed beyond their own jurisdiction by other Courts.

enforced or executed within the jurisdiction of the Court by which it was passed, may be enforced or executed within the jurisdiction of another Court within any part of the said territories in the manner following.

48. The party may apply to the Court which shall have passed such decree for a copy thereof, and also for a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, also for a copy of any order for execution of such decree that may have been passed. The Court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate to be furnished; and the same shall be signed by the Judge or one of the Judges of the Court, and sealed with the seal of the Court.

49. If such Court shall be the principal Civil Court of original jurisdiction in the district, the Judge certifying decree how to describe himself. Judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

50. If the Court shall not be the principal Civil Court of original jurisdiction in the district, the copy of the judgment, and of the order for execution, if any, and the certificate of the Judge, shall without delay be transmitted to the principal Civil Court of original jurisdiction in the district; and the Judge of such Court shall issue a certificate under his hand and the seal of the Court, verifying the signature of the Judge of the Court in which the decree shall have been given to the documents above mentioned; and in such certificate the Judge signing the same shall describe himself as the Judge of the principal Civil Court of the district, and shall also name the Court and the district.

51. All copies and certificates, which may be furnished by or transmitted to the principal Civil Court of original jurisdiction in the district in which such decree shall have been given, shall be transmitted by such Court without delay to the principal Civil Court of original jurisdiction in the district in which the party may wish to have the decree enforced or executed; and such Court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless the Court to which such documents shall be transmitted shall, under any peculiar circumstances, to be specified in an order, require the same.

52. The copy of any decree, or of any order for execution, when filed in the Court to which it shall be transmitted, for the purpose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may be enforced or executed by such Court, or any Court subordinate thereto, to which it may entrust the enforcement or execution thereof.

53. When application shall be made to any of the said Courts to enforce or execute the decree of any other Court

as aforesaid, the Court to which the application shall be made or referred shall proceed to enforce or execute the same, according to its own rules in the like cases; and the lastmentioned Court shall take cognisance of and punish all wrongful acts or irregularities done or committed in enforcing or executing such decree; and all persons disobeying or obstructing the enforcement or execution of any such decree shall be punishable by such lastmentioned Court in the same manner as if the said decree had been pronounced by such Court.

54. An appeal shall lie from any order of a Court for enforcing or executing the decree of another Court, in the same manner, and subject to the same rules, as if the decree had been originally passed by the Court making such order.

Chapter VI.

OF CONTEMPTS, AND DISOBEDIENCE OF ORDERS.

1. When any such offence as is described in Chapter XI. Clause 39 of the Penal Code is committed in contempt of the lawful authority of a Judge or Court of Justice, it shall be competent to such Judge or Court to punish the same as for a contempt of Court, and to adjudge the offender to punishment as authorised by the said Clause.

2. When any of the offences described in Chapter X. of the Penal Code is committed in contempt of the lawful authority of a Judge or Court of Justice, it shall be competent to such Judge or Court to punish the same as for a contempt of Court, and to adjudge the offender to punishment as authorised by the Clause applicable thereto.

3. Provided that Principal Sudder Ameer and Moonsiff shall not exceed the powers of punishment conferred on them respectively as Judges of subordinate Criminal Courts, in fixing the measure of punishment for any of the offences referred to in the two last preceding Articles; and provided, also, that when a person has been sentenced to punishment under the provisions of the last preceding Article, for refusing or omitting to do anything which he was required to do, it shall be competent to the Judge or Court of Justice to remit the punishment, on the submission of the offender to the order or requisition of such Judge or Court of Justice.

Chapter VII.

REFERENCE TO ARBITRATION.

1. If the Parties to a suit are desirous that the matters in difference between them shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

2. The application shall be made by the parties in person, or through one of the vakeels of the

Court, specially authorised in that behalf by an instrument in writing, which shall be presented to the Judge at the time of making the application, and shall be filed with the proceedings in the cause.

3. If the parties cannot agree with respect to the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, or, having accepted it, shall refuse to act, and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint some proper person or persons to be the arbitrator or arbitrators, as the case may be.

Appointment of arbitrators may be made by Court at the desire of parties.

4. The Court shall fix such time as it may think reasonable for the delivery of the award, and shall, by an order under its seal, in which the time so fixed shall be specified, refer to the arbitrator or arbitrators the matters in difference in the suit between the parties.

Order of reference.

5. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint their own umpire, or otherwise as may be agreed upon between the parties; or, if they cannot agree as to any of these particulars, as the Court itself may determine.

When the reference is to two or more, the order shall provide for difference of opinion.

6. If, on the day mentioned in the summons, or at any subsequent hearing of the cause, it shall appear to the Judge that the matter in dispute between the parties consists wholly or in part of matters of mere account which cannot conveniently be tried before him, it shall be lawful for him, at his discretion, to order that such matter of account be referred to an arbitrator appointed by the parties, or to an officer of Court, or to some other proper person whom the Judge may think fit to appoint, upon such terms as to costs and the remuneration of the arbitrator, or otherwise, as the Judge shall think reasonable.

Power to Court to direct arbitration.

7. If it shall appear to the Judge that the allowance or disallowance of any particular item or items in such account depends upon a question of law or fact fit to be decided by the Court, it shall be lawful for the Judge to decide such question of law or fact, and his decision thereupon shall be taken and acted upon by the arbitrators as conclusive.

Court may determine particular facts or points of law.

8. Whenever the parties to any deed or instrument in writing shall agree that any then existing or future differences between them or any of them shall be referred to arbitration, and any one or more of the parties so agreeing, or any person claiming through or under him or them, shall nevertheless commence any suit against the other party or parties, or against any person or persons claiming through or under him or them, in respect of the matters so agreed to be referred, or any of them, it shall be lawful to the Court in which the suit is brought, on application by the defendant or defendants at his or their first appearance before the Judge, in

If action be commenced by one party to a deed of arbitration, Court may stay proceedings.

obedience to any summons that may be issued in such suit, upon being satisfied that no sufficient reason exists why such matters cannot be or ought not to be referred to arbitration according to such agreement as aforesaid, and that the defendant was at the time of the commencement of such suit and still is ready and willing to join and concur in all acts necessary and proper for causing such matters so to be decided by arbitration, to make an order for staying all proceedings in such suit, on such terms as to costs or otherwise as to such Court may seem fit: provided always, that any such order may at any time thereafter be discharged or varied, as justice may require.

9. Upon any reference by an order of Court, whether compulsory or by consent, the arbitrator or arbitrators and umpire shall have all the like powers as the Court would have in the like circumstances; and the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators, or umpire, or the parties, may desire to have examined, as the Court is authorised to issue in causes tried before it; and persons not attending in consequence of such process, or making any default, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the arbitrator or arbitrators, or umpire, during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by orders made by the arbitrator or arbitrators, or umpire, as they would incur for the same offences in suits tried before the Court: provided that the arbitrator or arbitrators, or umpire, shall report the order, with the reason for making it, to the Court, and obtain its consent thereto, which is to be signified by the Judge's signing the order.

Powers of arbitrators.

10. In cases where the arbitrators or umpire shall not have been able to complete the award within the period specified in the order, from want of the necessary evidence or information, or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to any party or to the umpire a notice in writing stating that they cannot agree.

Extension of time for making award.

11. If, in any case of reference to arbitration by an order of Court, the appointed arbitrator or arbitrators, or umpire, shall die, or refuse or become incapable to act, it shall be lawful for the Court, on the application of the parties, or any of them, to appoint a new arbitrator or arbitrators, or umpire, in the place or stead of the person or persons so dying or refusing or becoming incapable to act; and where two arbitrators are at liberty by the terms of the order of reference to appoint an umpire, and do not appoint an umpire, then, and in every such instance, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven clear days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, upon proof

In case of death, incapacity, or refusal to act, of arbitrators or umpire, Court may appoint others instead.

to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Article, the arbitrator or arbitrators, or umpire so appointed, shall have the like power to act in the reference as if their name or names had been inserted in the original order of reference.

12. When a final award in a cause shall be made, either by the arbitrators or umpire, it shall be submitted to the Court, under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause.

13. It shall be lawful for the arbitrator or arbitrators and umpire, upon any reference, by an order of Court, whether compulsory or by consent of parties, if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

14. In any case where reference shall be made to arbitration as aforesaid, the Court shall have power at any time and from time to time to remit the matters referred, or any or either of them, to the reconsideration and redetermination of the same arbitrator or arbitrators, or umpire, upon such terms as to costs and otherwise as to the said Court may seem proper.

15. If the Court shall not see cause to remit the matters referred for reconsideration in manner aforesaid, it shall pronounce judgment conformable to the award, unless the same shall be set aside, or to its own opinion on the special case, if the award shall have been submitted to it in the form of a special case, and the decree shall be carried into execution in the same manner as other decrees of the Court.

16. All applications to set aside any award made on a compulsory reference or a reference by consent of the parties, shall be made within ten days after the same has been submitted to the Court; and if no such application is made, or if no rule is granted thereon, or if any rule granted thereon is afterwards discharged, judgment shall be pronounced as mentioned in the last preceding Article, and such judgment shall be final between the parties.

Chapter VIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

How Questions may be raised for the Decision of a Civil Court by any Persons interested.

1. Parties interested, or claiming to be interested in the decision of any question or questions of fact, or law or equity, may enter into an agreement, which shall not be subject to any stamp duty, that upon the finding of a Judge, in the affirmative or negative, of such question or questions of fact, or of law or

equity, a sum of money, fixed by the parties, or to be determined by the Judge, shall be paid by one of the parties; or that some property, moveable or immovable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act or acts, or shall refrain from doing or performing some particular act or acts specified in the agreement. Where the agreement is for the delivery of some property, moveable, or immovable, or for the doing or performing, or the refraining to do or perform any particular act or acts, the estimated value of the property to be delivered, or to which the act or acts specified may have reference, shall be stated in the agreement.

2. The agreement may be filed in any Court having jurisdiction in the matter, and numbered as a cause, with the proper officer, and when so filed

shall be numbered and registered as a cause between some or one of the parties interested, or claiming to be interested, as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; but it shall not be necessary to issue any process for summoning the defendant.

3. After the agreement shall have been filed, all the parties thereto shall be subject to the jurisdiction of the Court, and shall be bound by the statements therein.

4. The case shall be set down for hearing as an ordinary suit; and if the Judge shall be satisfied, after an

examination of the parties or their vakeels, or taking such evidence as he may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question or questions of fact, or of law or equity stated therein, and that the same is or are fit to be tried or decided, he shall proceed to record and try, or hear the same, and deliver his finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon his finding or deciding upon the question or questions of fact, or of law or equity, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement; and upon the judgment which shall be so given decree shall follow, and may be executed in the same way as if the judgment had been pronounced in a contested suit.

Of Special Cases for the Opinion of the Sudder Court.

5. Persons interested or claiming to be interested in any question as to the construction of any Act of Parliament, or any Regulation of the Bengal Code, or Act of the Council of India, will, deed, or other instrument in writing, or any article, clause, matter, or thing therein contained, or as to the title or evidence

of title to any real or personal estate contracted to be sold or otherwise dealt with, or as to the parties to, or the form of any deed or instrument for carrying any such contract into effect, or as to any other matter or thing, may, with the consent of a Judge of the Sudder Court, concur in stating the same in the form of a special case for the opinion of the Court; and all executors, administrators, and trustees may concur in such case.

6. Every such special case shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby, and shall be signed by the parties or their vakeels.

7. The special case shall be filed with the proper officer of the Court, and shall be numbered and registered as a cause.

To be filed and numbered as a cause. The parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; but it shall not be necessary to issue any process for summoning the defendants or defendant.

8. After the special case shall have been filed, all the parties thereto shall be subject to the jurisdiction of the Court, and such of the parties as are legally competent to bind themselves shall, for the purposes of such special case, be bound by the statements therein; and the parties who are not legally competent to bind themselves shall also so be bound by the statements therein, if the Court shall think proper so to direct, after taking such precautions as may be deemed necessary for protecting the rights of such parties.

9. The special case shall be set down for hearing as an ordinary suit, and the Court, after hearing the parties or their vakeels, shall proceed to determine the questions raised therein, or any of them, and to declare its opinion thereon, and, so far as the case shall admit of the same, upon the right involved therein, without proceeding to administer any relief consequent upon such declaration; and every such declaration of the Court shall have the same force and effect as such declaration would have had, and shall be as binding to the same extent as such declaration would have been, if contained in a judgment pronounced in a contested suit. Provided that if, upon the hearing of such special case as aforesaid, the Court shall be of opinion that the questions raised thereby, or any of them, cannot properly be decided upon such case, the Court may refuse to decide the same.

Hearing and disposal of the case.

or their vakeels, shall proceed to determine the questions raised therein, or any of them, and to declare its opinion thereon, and, so far as the case shall admit of the same, upon the right involved therein, without proceeding to administer any relief consequent upon such declaration; and every such declaration of the Court shall have the same force and effect as such declaration would have had, and shall be as binding to the same extent as such declaration would have been, if contained in a judgment pronounced in a contested suit. Provided that if, upon the hearing of such special case as aforesaid, the Court shall be of opinion that the questions raised thereby, or any of them, cannot properly be decided upon such case, the Court may refuse to decide the same.

Chapter IX.

OF APPEALS.

Appeals from Final Decrees.

1. An appeal shall lie, as hereinafter provided, from the decisions of the Judge, In what cases appeals shall lie from decisions of

Judges, Principal Sudder Ameen, and Moonsiffs.

the Principal Sudder Ameen, and of the Moonsiff, in all suits in

which the property, or possession, or right of occupancy of land or other real property, or the right to receive rent or profit issuing out of land or other real property, or the right to hold land or other real property exempt from the payment of rent or revenue, or anything in the nature thereof, or the right to hold land or other real property subject to the payment of a fixed annual sum on account of rent or revenue, or anything in the nature thereof, or the right to any benefits, liberties, or privileges derived out of or affecting any landed or other real property, or the right to receive or collect any customary or other payments or gratuities on any account whatsoever, or the title to any office, or to any trust or special privileges, or to any toll, fair, market, or franchise, or anything in the nature thereof respectively, shall be in question; and in all suits in which the right of inheritance from, or succession to, any person, or the validity of any marriage, divorce, will, or authority to adopt, or of any decree, bequest, or limitation under any will or settlement, or the condition or status of any person in respect of relationship, religion, caste, or otherwise, or the custody or guardianship of any person, may be disputed; and in all suits for any malicious prosecution, or for any libel or slander, or for criminal conversation, or for seduction, or for breach of promise of marriage.

2. An appeal shall also lie from all other decisions of the Judge, the Principal Sudder Ameen, and Moonsiff, except in suits in which the amount claimed does not exceed the sum of fifty Rupees.

3. In suits in which the amount claimed, or the value of the property claimed, does not exceed the sum of one thousand Rupees, the appeal from the decision of the Principal Sudder Ameen, or Moonsiff, as the case may be, shall lie to the Zillah Judge; in suits above that sum, to the Sudder Court at Calcutta.

4. The decision of the Judge in appeals from the decision of the Principal Sudder Ameen, or Moonsiff, shall be final; provided, however, that it shall be competent to the Judge, at the time of deciding an appeal from the judgment of a Principal Sudder Ameen or Moonsiff, to record his opinion, certifying in his judgment his reasons for the same, that the case is one for revision by the Sudder Court, and when he shall have so certified, the Sudder Court shall admit a special appeal from the decision of the Zillah Judge, in the event of either of the parties making application to that effect.

5. The appeal from the decisions of the Judge, in original suits, shall be to the Sudder Court. In original suits the appeal from the Zillah Judge shall be to the Sudder Court.

How Appeals are to be preferred.

6. The appeal shall be made in the form of a memorandum as hereinafter prescribed, which may be presented in the Appellate Court, or in the Court in which the decision objected to was passed, for transmission to the Appellate Court. In either case, the memorandum must be presented within the times hereinafter specified, unless the appellant shall, by a petition to the Appellate Court, show sufficient cause for not having presented it within such limited periods; that is to say, within thirty-one days if the appeal be to the Zillah Judge, or be to the Sudder Court from a decision of a Court of original jurisdiction constituted by one or more of its own Judges, and within ninety-one days if the appeal be to the Sudder Court from the decision of a Zillah Judge, Principal Sudder Ameen, or Moon-siff; the days to be reckoned in all the cases as immediately following and exclusive of the day on which judgment was pronounced.

7. An application for an extension of the time for presenting a memorandum of appeal may be made directly to the Appellate Court, or through the intervention of the Lower Court, at the option of the applicant. If the application for extension of time be made to the Lower Court, that Court shall record the reasons assigned for the application, and shall transmit a copy of its proceedings to the Appellate Court.

8. Every memorandum of appeal shall set forth concisely, and under distinct heads, grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. But the appellant shall not be tied down to the objections set forth by him in his memorandum of appeal.

The memorandum of appeal shall be in the following form, or to the following effect:—

Memorandum of Appeal.

(Name, &c. as in Register.) Plaintiff.
(Name, &c. as in Register.) Defendant.
[Name of Appellant] Plaintiff [or Defendant]
above named appeals to the Sudder Court at Calcutta [or Zillah Court at _____ as the case may be], against the decree of the Moon-siff, or Principal Sudder Ameen, of [or as the case may be], in the above cause, dated the _____ day of _____ for the following among other reasons.

9. If the memorandum of appeal be presented in the Court in which the decree objected to was passed, such lastmentioned Court shall forthwith forward the same to the Appellate Court, with an endorse-

ment thereon of the date on which it was presented.

10. Within one month from the date on which the memorandum of appeal shall be presented in the Lower Court, or one month from the date on which intimation shall be received by the Lower Court from the Appellate Court, that the memorandum of appeal has been presented in the Appellate Court, unless the Appellate Court shall think proper to enlarge the time, and then within such enlarged time, the Judge of the Lower Court shall, except as provided in the next succeeding Article, certify under his hand and the seal of his Court the record duly made up and authenticated, including authenticated copies of all his own material proceedings in the cause, and the original depositions, exhibits, and every original paper read in the cause, together with the written statements, if any, that may have been presented by the parties, or any of them, and received and recorded by the Judge, and shall transmit the record so made up to the Appellate Court. Previous to transmitting the abovementioned papers to the Appellate Court, the Judge of the Lower Court shall cause true and faithful copies of all the originals to be made out and authenticated by the proper officer of his Court, and deposited in the Court in lieu of the originals. The copies shall be records of the Court, and shall be received in evidence in any other Court in the same way as originals. In cases where any original deposition or other original proceedings or matter whatsoever shall have been previously entered in a book, which may likewise contain other proceedings in other distinct cases, or any other matter, so that such original papers cannot be transmitted to the Appellate Court without the other proceedings or matters, the Judge of the Lower Court, within the time and in the manner before directed, shall certify a true and authentic copy of such original papers, and that the original of each copy so transmitted is entered in such book. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book or proceedings of the Court, the copy shall have the force and effect of the original, and the Judge shall transmit a copy of it to the Appellate Court, and shall in like manner certify that the original, after due search, cannot be found. A memorandum of all expenses which may be incurred in the preparation of copies of papers or otherwise, in or about the making up and transmitting the record, shall be forwarded therewith to the Appellate Court, and shall be considered costs in the cause.

11. In appeal from the Principal Sudder Ameen and Moon-siff to the Zillah Judge, the proper officer shall attend in the Appellate Court, from time to time, as may be required, with the original record of the proceedings in the cause.

Of Staying and Executing Decrees under Appeal.

12. When any party or parties appealing

When and on what terms execution of decree may be stayed.

is or are directed to pay any sum of money, or to perform any duty, or when the decree is for the possession of land or any other property, real or personal, the Court whose judgment is appealed from shall and is hereby empowered to award that its judgment shall be carried into execution, or that sufficient security shall be given for the performance of such judgment; provided always, that where the Court of original jurisdiction shall think fit to order the judgment to be executed, security shall be taken from the other party or parties for the due performance of such order or judgment as may be passed in the Court of Appeal. But this decision shall itself be subject to appeal.

Of Procedure in Appeals from final Decrees.

13. When a memorandum of appeal shall

How the appeal is to be entered.

have been presented in or transmitted to an Appellate Court, the clerk (or proper officer) of the Appellate Court shall endorse thereon the date of presentment, if it was presented in the Appellate Court, or the date of receipt, if it was transmitted from the Lower Court, and shall register the appeal in a book to be kept for the purpose, and called the register of appeals.

14. The register shall be kept in the form

Form of the register.

contained in the Schedule (B) hereunto annexed; and a certified copy of the register, under the seal of the Court, shall be received in evidence in all Courts of Justice in India.

15. It shall not be necessary in any Court

Court of Appeal may, at its discretion, require security for costs from appellant.

of Appeal to take any security for costs, but it shall be in the discretion of every such Court of Appeal to demand security for costs from the appellant, or not, as it shall see fit, before the respondent is called upon to answer.

16. A day shall be fixed by the Appellate

Day to be fixed for hearing the appeal.

Court for the hearing and disposal of the appeal; which day shall not be earlier, in cases in which a record of the suit shall be transmitted by the Lower Court, than forty-two days from the day on which the record may have been received in the Appellate Court, and shall not be earlier, in cases appealable to the Sudder Court, when the officer is required to attend the Appellate Court with the original record of the suit, than twenty-one days from the presentment of the memorandum of appeal, but shall otherwise be as early, in all cases, as can be conveniently fixed, with a due regard to the state of business in the Court; the days to be reckoned in all the cases as exclusive of the day of hearing, and of the day on which the record may have been received,

or the memorandum of appeal presented in the Appellate Court. Notice of the day which has been fixed for the hearing of the appeal shall be sent by the proper officer of the Appellate Court to the proper officer of the Lower Court from the decree of which the appeal has been preferred, and shall be served on the appellant and respondent, in the same way as hereinbefore provided for in respect to the service of a summons. The notice to the appellant shall contain an additional intimation, that if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, either in person or by an advocate, attorney, or vakeel of the Appellate Court, his appeal will be dismissed for want of prosecution. And the notice to the respondent shall contain an intimation, that if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence.

17. On the day in that behalf mentioned in

The parties to be in attendance on day so fixed. the notices, and unless the Court shall otherwise direct, from day

to day, until the cause is called on, the parties, appellant and respondent, shall be in attendance in the Appellate Court, in person or by an advocate, attorney, or vakeel of the Court, duly empowered in manner hereinbefore mentioned, to represent them in all matters relating to the prosecution or defence of the appeal.

18. If, on the day fixed for the hearing of

Consequences of non-appearance. the appeal, or on any other day subsequent thereto on which the

cause may be called on, the appellant shall not appear in person, or by an advocate, attorney, or vakeel of the Court, the appeal shall be dismissed for default. If the appellant appears in person, or by advocate, attorney, or vakeel, and the respondent shall not appear in person, or by advocate, attorney, or vakeel, the appeal shall be heard *ex parte* in his absence.

19. Where an appeal is dismissed for de-

When an appeal is dismissed, intimation to be sent to the Lower Court. fault, an intimation of the dismissal shall be sent to the Court of original jurisdiction,

and the costs of preparing copies of papers, and making up and transmitting the record, may be realised from the appellant, under an order of that Court, to be enforced in the same manner as a decree of Court.

20. In all cases in which an appeal shall

How an appeal dismissed for default may be restored. be dismissed for default of prosecution, it shall be competent to the

appellant to apply within reasonable time to the Appellate Court, for the readmission of his appeal. The application shall be accompanied with a certificate from the Court of original jurisdiction that the costs mentioned in the preceding Article, when ordered to be realised from the appellant, have been fully paid and satisfied; and if the Appellate Court shall think proper to grant such application, a day shall be thereupon fixed for the hearing of the appeal, and a fresh notice shall be issued to

the respondent to be served in the same way as the first notice, and with the like additional intimation as is hereinbefore provided; but it shall not be necessary to issue or serve any notice on the appellant.

21. The Appellate Court, after hearing the cause, shall proceed to give its judgment in the same manner as hereinbefore prescribed in regard to the judgment of Courts of original jurisdiction, for confirming, or reversing, or modifying and altering the decree of the Lower Court, as the Appellate Court shall think proper.

22. No decision shall be reversed or altered, nor shall any case be referred back to the Court of original jurisdiction, on account of any error, defect, or irregularity not affecting the merits of the case.

23. If the Court of original jurisdiction shall have disposed of the case upon any preliminary point, so as to exclude any evidence of fact which shall appear to the Court of Appeal essential to the rights of the parties, and the decree of the Lower Court shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remit the case to the Lower Court, and cause the papers in the suit, together with a copy of the decree in appeal, to be transmitted to such Lower Court, with directions to proceed in the investigation of the merits of the case, and pass a decree therein.

24. It shall not be competent to the Appellate Court to remand a case for a second decision by the Court of original jurisdiction, except as provided in the preceding Article.

25. When there is sufficient evidence upon the record of the Lower Court to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

26. It shall not be competent to the parties in an appeal to produce additional evidence, whether of exhibits or witnesses; but if it appears that the Lower Court refused to admit competent evidence, or if the Appellate Court itself requires the production of exhibits or witnesses, as necessary to enable it to pronounce a satisfactory judgment, or if any other substantial cause demands a deviation from the ordinary rule, the Court may allow additional exhibits to be received, and the same and other witnesses to be examined; provided that whenever this power is exercised, the reasons for exercising it be recorded on the proceedings by the Appellate Court.

27. Whenever additional evidence is permitted to be received, it shall be competent to the Court of Appeal to take such evidence before itself, or to require the Lower, or any other Court, or to empower any person, to take such evidence; and it shall also be competent to the Court of Appeal to prescribe the mode by which such evidence shall be taken; and the Court of Appeal shall be at liberty to proceed by all or any of the modes aforesaid.

28. In all cases where additional evidence is permitted to be taken, the Court shall define the point or points to which the evidence is to be confined, and record the same in the minutes of the proceedings.

29. The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the cause, examining the parties or their vakeels, and awarding costs, or otherwise, as are hereinbefore contained in regard to Courts of original jurisdiction.

30. The judgment of the Appellate Court shall in all cases be pronounced in open Court, and, after being written out, shall be signed by the Judge or Judges. The judgment shall be written out in the English language; and where that language is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into the languages so being in such ordinary use, and the translation shall be signed by the Judge.

31. The decree of the Appellate Court shall bear date the day on which the judgment was passed, and shall contain the number of the suit, the names and description of the parties, appellant and respondent, the memorandum of appeal, a list of any additional exhibits that the Appellate Court may have allowed to be produced, and the names of any witnesses that it may have allowed to be examined. It shall also contain an exact copy of the ordering part of the judgment, or a translation thereof in the language in ordinary use in proceedings before the Court. The decree shall be sealed with the seal of the Court, and signed by the Judge or Judges who passed it, and copies shall be furnished to the parties in the same manner as hereinbefore provided for in regard to the decrees of Courts of original jurisdiction.

32. A copy of the decree, certified by the clerk or proper officer of the Appellate Court, and sealed with the seal of the Court, shall be transmitted to the clerk or proper officer of the Court of original jurisdiction which passed the first decree in the suit appealed from, and shall by him be filed with the original proceedings in the cause; and an entry of the

judgment of the Appellate Court shall be made in the original register of the suit.

33. Application for execution of the decree

How to be executed. of an Appellate Court shall be made to the Court of original jurisdiction which passed the first decree or order appealed from, and shall be enforced and executed by the Court which passed the first decree or order appealed from, in the manner and according to the rules hereinbefore contained for the enforcement and execution of original decrees or orders made by such lastmentioned Court.

Appeals from Orders.

From what orders appeal shall lie. 34. Appeals shall lie from the orders of Civil Courts as follows :—

(1st.) In all cases whatsoever, where the order is for the punishment of a contempt committed in the presence of the Court.

(2nd.) In all other cases whatsoever, unless otherwise specially provided for, if the decree in the suit be appealable.

(3rd.) In all other cases, unless otherwise specially provided for, whether the decree in the suit be appealable or not, provided that the person against whom the order has been passed is not a party to the suit.

35. The appeal from an order shall always be made to the Court to which the appeal should be made. to which the decree in the suit in which the order may be passed is appealable. If the order be passed in a suit in which the decree is not appealable, or in a judicial proceeding which cannot properly be titled as of any suit, the appeal from the order of a Moonsiff or Principal Sudder Ameen shall be made to the Zillah Judge, and the appeal from the order of a Zillah Judge shall be made to the Sudder Court.

36. The appeal shall not in any case stop the proceedings in the Lower Court. The appeal not to stay the proceedings.

Of Procedure in Appeals from Orders.

37. The procedure in appeals from orders shall be in all respects the same as in appeals from final decrees, except as hereinafter provided. Procedure, how it differs from the procedure in appeals from decrees.

(1.) The register shall be kept in the form contained in the Schedule (C) hereunto annexed.

(2.) The memorandum of appeal shall in all cases be presented in the Court in which the order objected to was passed, within five days immediately following, and exclusive of the day on which the order was pronounced.

(3.) Where the appeal is from the order of a Zillah Judge, Principal Sudder Ameen, or Moonsiff, the memorandum of appeal shall be accompanied with a list of the papers or depositions of which the appellant desires that

copies should be transmitted to the appellate Court.

(4.) The memorandum of appeal shall be transmitted to the Appellate Court within eight days from the date of presentment; and where the appeal is from the order of a Zillah Judge, Principal Sudder Ameen, or Moonsiff, authenticated copies of the order appealed against, and of the papers and depositions mentioned in the list accompanying the memorandum, shall be transmitted to the Appellate Court with the memorandum of appeal.

(5.) At the expiration of twenty days after the presentment of a memorandum of appeal in a case appealable to the Zillah Court, and thirty days after its presentment in a case appealable to the Sudder Court, from the order of a Zillah Judge, Principal Sudder Ameen, or Moonsiff, and ten days in a case appealable to the Sudder Court from an order of a Court of original jurisdiction constituted by one or more of its own Judges, the case shall be set down for hearing in the Appellate Court, and if the appellant does not appear on any day thereafter that the case may be called on for hearing, it shall be struck out of the file; but the Appellate Court shall have power to restore the case to the file, if sufficient cause to its satisfaction for so doing be shown within a reasonable time.

(6.) It shall not be necessary for the Appellate Court to call for any further papers, unless it shall think proper.

(7.) It shall not be necessary to give any notice to the respondent.

(8.) The judgment may be delivered orally, and reduced to writing in the language of the Court, by an officer of the Court, or otherwise as the Court may think proper in each particular case.

Chapter X.

REVIEW OF JUDGMENT.

1. Any persons considering themselves aggrieved by a decree of any Court of original jurisdiction, from which no appeal shall have been preferred to a superior Court—or by a decree of a Zillah Judge in appeal, from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal, having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who, from the discovery of new matter or evidence which was not within their knowledge, or could not be adduced by them at the time when the decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them—may apply in person or by advocate, attorney, or vakel, for a review of judgment by the Court which passed the decree.

Cases in which a party may apply for a review of judgment. The application shall be made within three months from the date of

Within what time. the application should be made.

the decree, but the Courts are nevertheless authorised to admit applications for a review after the period above mentioned, provided that the parties preferring the same shall be able to show just and reasonable cause, to the satisfaction of the Court, for not having preferred such application within the limited period. If the Court to which an application for a review may be presented shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application; but if, on the contrary, it shall be of opinion that the review desired is necessary, to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court to which the application may have been presented shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final.

The order of the Court for granting or refusing the review is final.

2. Provided that, if the Court to which the application for a review of its judgment has been presented be the Sudder Court, whenever the Judge or Judges who may have passed the decree, or, if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering his order or opinion upon the same, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

3. In all cases in which an application for a review of judgment may be granted by any Court, the Court shall give such order, in regard to the summoning of the absent party or parties, and hearing of the cause, as it may deem proper in the circumstances of the case.

4. The Principal Sudder Ameens and Moonsiffs shall, at the close of each month, send to the Judge of the Zillah a list of the cases in which they may have admitted a review of judgment, with a statement of the grounds on which the review has been admitted, and the Judge shall in like manner, at the close of each month, send to the Sudder Court a list of the cases in which he may have admitted a review of judgment, together with the grounds on which the review has been admitted, and shall at the same time transmit to the Sudder Court any lists which he may have received from the Principal Sudder Ameens and Moonsiffs, of cases in which they may have admitted a review of judgment, together with such remarks as he may think proper thereon.

SCHEDULE A, referred to in the foregoing Scheme of Procedure.
of
holden at
REGISTER OF CIVIL SUITS in the Year 18
Court of the

Date of Application for Summons.	No. of Suit.	Plaintiff.			Defendant.			Claim.			Appearance.			Judgment.			Appeal.	Execution.						Return of Execution.		
		Name.	Trade or Quality.	Residence.	Name.	Trade or Quality.	Residence.	Particulars.	Amount or Value.	When the Cause of Action accrued.	Day for Parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or Amount.		Date of Appeal.	Judgment in Appeal.	Date of Application.	Against whom.	For what, and Amount if Money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than Payment or Arrest, and Date of every Return.

SCHEDULE B to the foregoing Scheme of Procedure.
SUDDER COURT at CALCUTTA [or Zillah Court at
REGISTER OF APPEALS FROM FINAL DECREES in the Year 18 .

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Date of Memorandum, and where presented.	No. of Appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment.		
		Name.	Trade or Quality.	Residence.	Name.	Trade or Quality.	Residence.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE C to the foregoing Scheme of Procedure.
SUDDER COURT at CALCUTTA [or Zillah Court at
REGISTER OF APPEALS FROM ORDERS in the Year 18 .

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Date of Memorandum.	No. of Appeal.	Name of Appellant.	Name of Respondent.	Order appealed from.		Order in Appeal.	
				Of what Court.	Substance of Order.	Confirmed, reversed, or altered.	Date.

W. MORGAN,
 Clerk of the Council.

[637]



THIRD SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

THURSDAY, 5TH MARCH 1857.

Legislative Council.

7th February 1857.

The following Bill was read a second time in the Legislative Council on the 7th February 1857, and was referred to a Select Committee, who are to report thereon after the 18th of May next:—

A Bill for Simplifying the Procedure of the Courts of Civil Judicature of the East India Company in MADRAS.

Whereas it is expedient to simplify the Procedure of the Civil Courts of the East India Company in such parts of the Presidency of Fort St. George as are subject to the General Regulations of the Madras Code; It is hereby enacted as follows:—

1. This Act shall extend only to such parts of the Presidency of Fort St. George as are subject to the General Regulations of the Madras Code, except so far as is hereinafter otherwise expressly provided.

Chapter I.

SUDDER COURT.

The Sudder Court at Madras shall possess the appellate and other Civil jurisdictions now exercised by it, except so far as the same are altered or modified by this Act.

Chapter II.

CIVIL COURTS SUBORDINATE TO THE SUDDER COURT.

1. There shall be three grades of Judges in each zillah or district:—

Zillah Judges.
Principal Sudder Ameens.
Moonsiffs.

2. The Courts of the Zillah Judges, Principal Sudder Ameens, and Moonsiffs, shall be denominated after the zillah, or city, or division in which they are respectively established.

3. The appointment, suspension, and removal of the Zillah Judges, Principal Sudder Ameens, and Moonsiffs, shall be regulated by such rules and orders as the Governor or General in Council shall from time to time pass.

4. Each Civil Court is to be presided over by one or more Judges; and every Judge, previous to entering upon the execution of the duties of his office, shall make and subscribe the following declaration before any authority or person commissioned by competent authority to receive it:—

"I, A. B., appointed of the Court of do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

5. Each Civil Court is to use a seal, such as shall be prescribed by the Local Government.

6. It shall rest with the Governor in Council, upon the report of the Ministerial Officers. Sudder Court, made after such communication with the zillah authorities as may be deemed requisite, to fix such establishment of ministerial officers as may be necessary for the due execution of all the duties committed to the several Civil Courts, and to prescribe the number of offices, the number of officers, their respective salaries, the tenure by which they are to hold office, and such other particulars as the said Governor in Council may deem proper. Upon the receipt of the instructions of the Governor in Council, the Judges of the Civil Courts shall make the appointments to the several offices of their respective establishments.

7. The Civil Courts shall be empowered to take cognisance of all suits and complaints of a civil nature, with the exception of suits their cognisance of which is barred by any Act of Parliament, or by any Regulation of the Madras Code, or by any Act of the Council of India.

8. The Civil Courts shall not take cognisance, except in the way of appeal, or of review of judgment, of any cause which shall have been already heard and determined by a Court of competent jurisdiction between the same parties, or parties under whom the parties to the cause claim.

9. The Civil Courts are empowered to take cognisance of suits against collectors of the revenue and their assistants and native officers, salt agents and their assistants and native officers concerned in the manufacture of salt, opium agents and their assistants and native officers concerned in the manufacture of opium, collectors of the customs and their assistants and native officers employed in the collection of the customs, the mint and assay masters and their assistants and native officers, for acts done in their official capacity.

10. No person whatever shall, by reason of place of birth, or by reason of descent, be in any civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

11. The Moonsiffs shall be empowered to receive, try, and determine suits of every description cognisable by the Civil Courts under the following pecuniary limitations; provided the landed or other real property to which the suit may relate shall be situated, or provided in all other cases the cause of action shall have arisen, or the defendant, at the time when the suit may be commenced, shall dwell, or carry on business, or work for gain, within the limits to which their respective jurisdictions may extend:—

For money or other personal property not exceeding in amount or value the sum of two thousand five hundred Rupees, provided the claim include the whole amount of the demand arising from the cause of action; but any plaintiff having cause of action for debt or damages above the sum of two thousand five hundred Rupees may abandon the excess, and thereupon he shall, on proving his case, have a decree for an amount not exceeding such sum, and such decree shall be in full discharge of all demands in respect of such cause of action.

For the property or possession of land or other real property, the computed value of which shall not exceed two thousand five hundred Rupees.

12. If a defendant claim to set-off a demand against the claim of a plaintiff to an amount in excess of the ordinary jurisdiction of the Moonsiff, the Moonsiff shall, nevertheless, have authority to try the case, and shall give judgment for the recovery of any sum which upon inquiry shall appear to be due to either party.

13. The Principal Sudder Ameen shall be empowered to receive, try, and determine suits of every description cognisable by the Civil Courts in which the amount claimed or the computed value of the property may exceed the sum of two thousand five hundred Rupees, provided the landed or other real property to which the suit may relate shall be situated, or provided in all other cases the cause of action shall have arisen, or the defendant, at the time when the suit may be commenced, shall dwell, or carry on business, or work for gain, within the limits of the district over which his jurisdiction may extend.

14. The Principal Sudder Ameen shall further exercise the same powers as the Moonsiff within the limits of the territorial division now included in the local jurisdiction of the Moonsiff fixed at the sudder or head station of the district.

15. The Zillah Judge shall have concurrent original jurisdiction with that of the Principal Sudder Ameen in regard to all suits above the value of two thousand five hundred Rupees; provided, however, it shall be competent to a Zillah Judge, on cause shown, to receive, try, and determine a suit within the pecuniary limitation assigned to the Moonsiff, or to direct the transfer of any suit from any Court to any other Court of equal or superior jurisdiction in his district.

16. A suit for land or other real property situate within the limits of a single zillah, but within the jurisdiction of different Moonsiffs' Courts, may, with the previous sanction of the Judge of such zillah, be brought in any Court within the limits of which any portion of such property is situate, provided the entire claim in respect of the value of the property in suit be cognisable by such Court.

17. In like manner, if the property be situate within the limits of different Zillah Courts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other real property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; and if the suit is brought in the Court of the Principal Sudder Ameen or Moonsiff, the application shall be submitted through the Zillah Judge to whom such Principal Sudder Ameen or Moonsiff is subordinate.

18. No suit in any of the Civil Courts shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Court to make binding declarations of right without granting consequential relief.

19. The judicial decisions of the Courts of Justice shall be subject to revision only by the constituted Courts of appellate

jurisdiction, or by themselves, under the rules of the code of procedure applicable to reviews of judgment.

Chapter III.

PRELIMINARY RULES.

1. All applications to any Civil Court, and all

Parties may appear in person or by vakeel.

appearances of parties in any Civil Court, except when otherwise specially

provided, may be made by the party in person, or through a vakeel duly authorised to act on his behalf. The authority shall in all cases be in writing, and shall be filed with the proper officer of the Court. When so filed, it shall be considered to be in full force until revoked, and the revocation shall be intimated in writing to the officer; and all notices given to, or processes served on, the vakeel of either party, or left at the office or ordinary residence of such vakeel, relative to the suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the vakeel represents, and shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

2. In all cases in which a party shall appear

Party appearing in person to enter his name and address in a book.

in person, and the cause shall not be decided on the day of his appearance, he shall enter his

name and place of abode in a book to be kept for that purpose by the proper officer of the Court, if the Court shall determine upon his application that his place of abode is within eight miles from the Court-house by the nearest road; otherwise, he shall enter in the said book the name and place of abode of some person residing at a place which the Court shall determine to be within such distance of the Court-house, on whom he may wish that all notices or process in the cause should be served on his behalf. And all notices or process relative to the suit which may thereafter be left at the place so entered in the register shall be deemed good service on the party, and shall be as effectual for all purposes relative to the suit as if the same had been served on the party himself in person, unless the Court shall otherwise direct. If no such entry as aforesaid shall be made in the said register, the fixing up of such notices or process in some conspicuous place in the office of the clerk or other proper officer of the Court, and also in some conspicuous place in the Court-house, shall in like manner be deemed to be good service, and shall be as effectual for all purposes relative to the suit as if such entry had been made, and the notice or process had been left at the place so entered in the register.

3. When a native officer or soldier in the service of the Government is

Native officers or soldiers who cannot obtain leave of absence may authorise any person to appear for them;

a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or

defending it in person, he may authorise any member of his family or any other person to conduct and manage the suit or the defence, as the case may be, in his stead. The authority shall in all cases be in writing, and shall be signed by the native officer or soldier in the presence of his commanding officer, who shall countersign the same, and it shall be filed with the proper officer of the Court. When

so filed, the counter-signature of the commanding officer shall be sufficient proof that the authority was duly executed, and that the native officer or soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

4. Any person who may be authorised, as in

Who may appear personally, or appoint vakeel.

the last preceding Article mentioned, by a native officer or soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the native officer or soldier could do if present; or he may appoint a vakeel of the Court to prosecute or defend the suit on behalf of such native officer or soldier. And all notices or process relative to the suit which may be served upon any person who shall be so authorised as aforesaid by a native officer or soldier, or upon any vakeel who shall be appointed as aforesaid by such person to act for or on behalf of such native officer or soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on a vakeel directly appointed by him.

Chapter IV.

OF A SUIT TILL FINAL DECREE.

Of the Institution of Suits.

Suits to commence with summons.

1. All suits shall be commenced by a summons to the defendant.

2. The application for a summons shall be made to the clerk or other proper officer of the Court by the party in person, or through a vakeel of the Court duly authorised to act on his behalf, by an instrument in writing, which shall be delivered to the officer at the time of making the application.

Summons how to be applied for.

by the party in person, or through a vakeel of the Court duly authorised to act on his behalf, by an instrument in writing, which shall be delivered to the officer at the time of making the application.

3. The application shall be accompanied by the following particulars, distinctly written in the language in ordinary use in proceedings before the Court, namely—

the following particulars, distinctly written in the language in ordinary use in proceedings before the Court, namely—

(1.) The name, description, and place of abode of the plaintiff.

(2.) The name, description, and place of abode of the defendant, so far as they can be ascertained.

(3.) The relief sought for, the subject of the claim, the cause of action, and when it accrued. The following are instances:—

If the suit be for money due on a bond or other written instrument:—Payment of Company's Rupees due on (a bond, tumusook, hoondee, or bill of exchange, as the case may be) for the sum of Company's Rupees bearing date the day of and payable on the day of

If the suit be for the price of goods sold:—Payment of Company's Rupees on account of maunds of (rice, indigo, sugar, or as the case may be) sold on the day of and the price of which became payable on the day of

If the suit be for damages for slanderous words:—Payment of Company's Rupees on account of injury done to the plaintiff, by calling

him on the day of a (thug, or thief, or as the case may be), or by causing to be published on the day of in a newspaper entitled the (or otherwise as the case may be) the following slanderous words concerning him (stating them at length, as the case may be).

(4.) When the claim is for any property other than money, its estimated value Company's Rupees. The following are instances :—

If the suit be for a Zemindary, or share in a Zemindary :—Possession of a Zemindary, or of annas gundas share in a Zemindary called situate in the Zillah of the Sudder Jummah of which is Company's Rupees and estimated value Company's Rupees of which the plaintiff was dispossessed (or forcibly or fraudulently dispossessed, if the case be so) on the day of or to which the plaintiff became entitled by inheritance from on or about the day of

(5.) When the claim is for a declaration of right, or the fulfilment of a duty in which the plaintiff is interested, or that the defendant be restrained from the committal of any breach of a contract or other injury to the plaintiff, or for anything not susceptible of pecuniary valuation, it shall be necessary to specify the estimated value of any property or any sum of money by way of damages.

(6.) In all suits by or against the Government, or one of its officers in his official capacity, or the East India Company, or any other Corporation, or any Company authorised to sue and be sued in the name of an Officer or Trustees, the words "The Government," or "The Collector of" or otherwise as the case may be, or "The East India Company," or name of the Corporation, or name or names of the Officer or Trustees of the Company, shall be inserted in Nos. (1) and (2), instead of the name and description of the Plaintiff or Defendant. But in all other cases, it shall be necessary to specify the names of all the parties.

4. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the officer shall refuse to receive the application.

5. If the suit be for land or other real property situate partly within the jurisdiction of the Court, and partly within the jurisdiction of some other Court or Courts, the officer shall submit the application for the order of the Judge.

6. If the amount or estimated value of the claim, as stated by the plaintiff, be within the jurisdiction of the Court, the above particulars shall be entered by the Officer in a book to be kept for the purpose, and called the Register of Civil Suits, and the entries shall be numbered in every year according to the order in which the application shall be made.

7. The register shall be kept in the form contained in the Schedule (A) hereunto annexed ;

Form of the register.

and a certified copy of the register, under the seal of the Court, shall be received in evidence in all Courts of Justice in India.

8. When the plaintiff's demand is founded on Document of debt should any instrument in writing, as constituting or shown to the officer. acknowledging the demand, such as a bond, tumusook, bill of exchange, hoondie, ikrar, or acknowledgment, the same shall be produced and shown to the officer at the time of applying for the summons, and a copy of the instrument shall be delivered to him at the same time, for the purpose of being served with the summons on the defendant; and if such instrument shall not be produced, it shall not be received in evidence on behalf of the plaintiff at the hearing or trial of the cause, without the sanction of the Court. When there is more than one defendant, a copy of the instrument for each defendant shall be delivered to the officer, unless all the defendants are members of one joint and undivided Hindoo family, in which case one copy of the instrument will be sufficient.

9. The person applying to the officer for a summons shall state, at the time of his application, whether he requires a summons for the first hearing and settlement of issues or for the final disposal of the cause.

Of Summoning the Defendant.

10. The summons shall be in the following form, or to the following effect :—

Form of summons.
No. of Suit
In the Court of the of
holden at
Plaintiff.
Defendant.

[Name, description, and address of defendant.]

You are hereby summoned to appear at this Court on the day of at in the forenoon, to answer [name, description, and address of plaintiff,] to a claim for [here state the particulars, as in the Register referred to in Article 7 of this Chapter.]

Dated the day of (Signature.)

Costs of summons and service
This summons must be served on or before the day of

N. B.—See notice at back.

11. Special directions shall be endorsed on the summons, which, if the application be for a summons for the first hearing and settlement of issues, shall be as follows :—

(1.) If you admit the plaintiff's claim, you must deliver your admission in writing, under your signature, to the officer of the Court, together with the costs marked on the summons, five clear days before the day for appearing to this summons; but you may enter your admission at any time on or before the day of appearing, subject to the payment of further costs.

(2.) If you admit any part of the plaintiff's demand, and pay to the officer of the Court the amount so admitted, together with the costs, five clear days before the day of appearance, you will avoid any further costs, unless the plaintiff at the hearing shall prove a demand against you exceeding the sum so paid into Court.

(3.) If you deny the plaintiff's claim, or any part of it, you must appear on the day fixed in the summons, and be prepared to answer all questions that may be put to you by the Judge, relating to the plaintiff's demand, and your liability thereto, and to state any objections which you may have to make to the same.

(4.) You must bring all documents or instruments in writing of any description, which you may wish to produce in explanation, or as evidence of your defence to the suit, or of any counter-claim against the plaintiff which you may desire to make a set-off to his demand against you; and in particular, you must bring with you all or any instruments in writing or things which may be specified in any notice to produce that accompanies this summons, or that may be served on you within a reasonable time before your appearance thereto.

(5.) If you do not appear in person, you must employ a vakeel of the Court to appear in your stead, and must furnish him with the documents, instruments, or things above referred to, and with any information that you possess in regard to the plaintiff's demand, and your own defence thereto; so as to enable him to answer for you in all respects as you could do yourself if interrogated in person. And if you fail in any of these matters, and your vakeel is unable to answer any questions that may be put to him on your behalf by the Judge, and the Judge shall be of opinion that the documents, instruments, or things referred to, are such as you ought to have produced, or that the questions put to your vakeel are such as you ought to be able, or are likely to be able, to answer, if interrogated in person, the hearing of the case will be postponed, a notice will be given to your vakeel requiring your personal appearance and the production of the documents, instruments, or things referred to, and you will have to pay all the costs; and if you should fail to appear in obedience to such notice, judgment will be given against you by default.

(6.) If you do not appear on the day fixed in the summons, either in person or by a vakeel of the Court, judgment will be given against you by default.

12. If the application be for a summons finally to dispose of the case, Further direction on this further direction shall be endorsed thereon:—

(7.) You are required to take special notice that the day fixed in the summons for your appearing is appointed for the final disposal of the case, and that you must be prepared to produce all your witnesses. If you fail to do so, and the Judge shall think proper to postpone the cause to another day in consequence of your default, you will have to pay all the costs that may be incurred by the postponement. If your witnesses will not come at your request, you should apply to the officer of the Court, either in person or by vakeel, not later than the day of for subpoenas to compel their attendance.

13. If the summons be to settle the issues, the day for the appearance of the defendant shall not be less than ten days, ex-

clusive of the day of service and day of appearance, above the time that may be necessary for the service of the writ, such time to be computed at the rate of one day for every eight miles in a straight line that the residence of the defendant may be distant from the Court.

14. If the summons be for a final disposal of the case, the day to be fixed for the appearance of the defendant shall not be less than fifteen days (exclusive as aforesaid) above the time that may be necessary for the service of the writ, such time to be computed in the manner above mentioned.

Service of Summons on the Defendant.

15. The writ of summons shall be delivered to the nazir or other proper officer of the Court, to be served by himself or one of his subordinates, and such officer shall be responsible for its due service.

16. A day on or before which the summons must be served shall be written at the foot of the summons before delivery to the officer, and the day so to be written shall be always such as to allow the defendant the full benefit of the clear days to which he may be entitled under Articles 13 and 14 of this Chapter.

17. Service of the summons shall be made by exhibiting the original under the seal of the Court, and delivering or tendering a copy thereof, and of the endorsements thereon, together with any notice to produce, and copies of any documents or instruments in writing that may have been delivered to the clerk, or proper officer of the Court, at the time of applying for the summons, for the purpose of being served therewith.

18. When there are several of the summons shall be made on each defendant, unless all the defendants are members of one joint and undivided Hindoo family; in which case service on any one of the defendants shall be sufficient, if made at the family dwelling-house of the joint and undivided family.

19. Whenever it may be practicable, the service shall in all cases be on the defendant in person, unless he have an accredited agent, empowered to accept the service; in which case service on such agent shall be sufficient.

20. Any vakeel of the Court, or any other person residing within its local jurisdiction, may be appointed an accredited agent to receive the services of summonses and all other judicial process. The appointment shall always be in writing, and shall be filed with the clerk or other proper officer of the Court to which the agent is accredited, and shall be considered to be in full force until it shall be revoked, and such revocation be recorded with the proper officer of the Court.

21. The Government Pleader in each Court shall be accounted the accredited agent of the Government.

Time for appearance on a summons to settle issues.

Government for the purpose of receiving services of summonses, and all other judicial process against the Government, issuing out of the Court in which he may be the pleader of Government.

22. When the defendant cannot be found, and has no accredited agent empowered to accept the service, it may be made on any adult member of his family residing with him.

23. In all cases where the summons is served on the defendant personally, or any agent or other person on his behalf, the serving officer shall require the signature of the person on whom the service may be made to an acknowledgment of service to be endorsed on the original summons.

24. When the defendant cannot be found, and there is no agent or other person empowered to accept the service, nor any member of his family on whom the same can be served, the serving officer shall fix the copy of the summons, with its endorsement, and accompanying notice and copies of documents, if any be annexed thereto, on the outer door of the defendant's dwelling-house; and if he shall have no dwelling-house in the place, the serving officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

25. The serving officer shall, in all cases in which the summons has been served, endorse on the original summons the time and the manner when and how it was served.

26. In all cases in which a summons shall be returned to the Court without having been served on the defendant, the plaintiff shall be at liberty to apply to the Court for an order to substitute some other mode of serving the summons for service in the manner above specified; and if it shall appear to the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its officer, for the purpose of avoiding the service of the summons, it shall pass an order directing that the summons may be served, by fixing up copies thereof, with its endorsement and accompanying notice and copies of documents, if any be annexed thereto, upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

27. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last Article, the time for the appearance of the defendant shall be enlarged, so as to allow him the full benefit of the clear days to

which he may be entitled under Articles 13 and 14 of this Chapter.

28. If the defendant be resident within the jurisdiction of any other Court than that in which the suit may be instituted, and has no accredited agent empowered to accept the service, the summons shall be transmitted by the clerk or proper officer of the Court to the clerk or proper officer of the Court within whose jurisdiction the defendant may reside, with such enlargement of the time for appearance as the case may require. And the clerk or proper officer of the last-mentioned Court shall, upon receipt thereof, deliver the same to the nazir or other proper officer of his own Court, to be served in the manner above directed; and upon the return of the summons by the serving officer, it shall be re-transmitted to the clerk or proper officer of the Court from whence it originally issued.

29. If the defendant be resident at some place out of the territories of the East India Company, and have no agent empowered to accept the service, and the suit be for landed or other real property, the summons may be served on any person in charge of the landed or other real property to which the suit may relate, and the service shall be as effectual for all purposes of the suit as if the person had been duly empowered to accept it. If there shall be no person in charge of the landed or other real property to which the suit relates, on whom the summons can be served, or if the suit shall not relate to landed or other real property, but the defendant is nevertheless subject to the jurisdiction of the Court by reason of the cause of action having arisen within the limits of its jurisdiction, a copy of the summons, and of the endorsements thereon, together with any notice to produce, and any copies of any documents or instruments in writing that may have been delivered to the clerk or other proper officer of the Court, at the time of applying for the summons for the purpose of being served therewith, shall be addressed to the defendant at the place where he may reside, and forwarded to him by post: provided that, in all cases in which a defendant is resident at some place out of the territories of the East India Company, the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is holden and the place where the defendant resides; and provided also, that if on the day fixed for the hearing of the cause, or on any other day subsequent thereto on which the cause may be called on, the defendant shall not appear in person, or by vakcel, the plaintiff shall apply to the Judge, and it shall be lawful for the Judge to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to such Judge may seem meet; provided always, that the plaintiff shall prove his case to the satisfaction of the Judge, and the making such proof shall be a condition precedent to his obtaining judgment.

30. When the defendant is a native officer or soldier in the service of the Government, a copy of the summons and of

the endorsements thereon, together with any notice to produce, and any copies of any documents or instruments in writing that may have been delivered to the clerk or other proper officer of the Court for the purpose of being served therewith, shall be transmitted by the Judge to the commanding officer of the corps to which the native officer or soldier shall belong, for the purpose of being served on such native officer or soldier. The commanding officer, after causing the summons and its accompanying notices and copies of documents to be served on the party to whom it is addressed, if practicable, shall return the summons to the Judge, with the written acknowledgment of the party endorsed thereon. If from any cause the summons cannot be served upon the native officer or soldier to whom it is addressed, it shall be returned by the commanding officer to the Judge from whom it may have been received, with information of the cause which has prevented the service of it. In such case the Court shall either make a further reference, with the view of causing the summons to be duly communicated to the native officer or soldier, or shall adopt such other measures for that purpose as, on a consideration of the circumstances of each case, shall appear to be proper.

How Privileged Persons are to be summoned.

31. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons a letter, roobekaree, or other appropriate proceeding under the seal of the Court, when the person whose presence is required is of a rank or class in society which entitles him to such mark of consideration; and in such cases the letter or other proceeding shall be treated in all respects as a summons, and shall be accompanied with a copy of the directions which would ordinarily be endorsed on the summons, and with any notice and copies of any other documents which would have been delivered therewith if a summons had been issued for the appearance of the party.

32. A list of the persons (if any) residing within the limits of the Court's jurisdiction, who are entitled to the mark of consideration mentioned in the last Article, shall be kept in the office of the clerk or other proper officer of the Court, and any application for a summons against a person whose name is entered in the said list shall be referred by the officer to the Judge for his order before the summons shall be issued to the defendant.

33. When a letter or other proceeding is sent to a party on account of his being of a class or rank of society that entitles him to that distinction, it may be transmitted through the post-office, or by a special messenger selected by the Court, or in any other manner that the Court may deem sufficient; unless the party shall have an accredited agent empowered to accept service of judicial process; in which case delivery to such agent shall be sufficient service. When the letter is transmitted through the post-office, or by special messenger, proof that it was duly posted or was delivered to the messenger shall be sufficient proof of its due service, in the absence of evidence to the contrary.

How Persons not before the Court may be made Parties to a Suit.

34. In every suit concerning the succession or

In certain cases of inheritance a proclamation for claimants to be issued at the same time as the summons to the defendant.

right of inheritance to a zemindary, talook, land, house, or other real property, to which there may be more persons than one who, by the Hindoo or Mahomedan law (regard being had to the religion of the claimants), would be entitled to a portion of the estate, there shall be issued, at the same time with the summons to the particular defendant or defendants, and in addition thereto, a proclamation setting forth the names of the parties, the nature of the suit, the day fixed for the hearing of the cause, and whether it have been fixed for the first hearing and settlement of issues, or for final disposal, and calling on all persons having any claim to any share or interest in the property to appear on the said day, either in person or by a vakeel of the Court, and be prepared to state their claims to the Court, and to support them by proper evidence.

35. The proclamation shall be read aloud by the officer employed to serve the summons on some public place within the limits of the zemindary, talook, land, or other real property concerning which the suit may be brought, and copies thereof shall be fixed up in some conspicuous part of the Court-house, and on the outer door of the family dwelling-house of the person the right of succession or inheritance to whose property is in question, or of the house in which he may have last resided. If the suit shall be brought in any Court subordinate to the Zillah Judge, a copy of the proclamation shall also be fixed up in some conspicuous part of the Court of the Zillah Judge, as well as in the Court of the particular Judge in whose Court the suit may be brought.

36. If in any suit it shall appear to the Court at any hearing of the cause, that all the persons who may be entitled to some share or interest in the property in dispute have not been made parties to the suit, it shall be competent to the Court to adjourn the hearing of the cause to a future day, to be fixed, and to direct a proclamation to be issued, calling upon all persons having any claim to any share or interest in the property to appear on the day so to be fixed, and be prepared to state their claims to the Court, and to support them by proper evidence. If the suit shall relate to the succession or right of inheritance to a zemindary, talook, land, house, or other real property, the proclamation shall be published or made known in the manner prescribed in the last preceding Article. If the suit shall relate to any other matter or thing, a copy of the proclamation shall be fixed up in some conspicuous part of the Court-house, and it shall also be competent to the Judge to direct that the proclamation shall be published or made known in such other manner as he may think proper. If the suit shall be brought in any Court subordinate to the Zillah Judge, a copy of the proclamation shall in all cases be fixed up in some conspicuous part of the Court of the Zillah Judge, as well as in the Court of the particular Judge in whose Court the suit may be brought.

37. If any claimant shall appear on the day fixed in any proclamation issued under the provisions of Article 34 or of Article 36 of this Chapter, the Court shall investigate his claim and pronounce a decision thereon, in the same way as if he had been made originally a party to the suit.

Of Suits against the Government and its Officers.

38. If the suit be against the Government, or against any of its officers, for acts which the plaintiff at the time of applying for the summons alleges to have been done in an official capacity, the application for the summons shall be referred by the officer to the Judge for his order before any summons shall be issued to the defendant.

39. If it shall appear to the Judge, after examining the applicant, that the act complained of was done pursuant to a special order originating with the Government, or with the Board of

In cases where the Civil Courts have no direct jurisdiction against the officers of Government, the applicant is to be referred to the Government.

Revenue, and that the officer by whom the act was done is not liable to be sued for it, the Judge shall direct the person who may have made the application for the summons to apply in the first place to the Government by petition, stating wherein he considers himself injured under the Regulations of the Madras Code, or the Acts of the Council of India, and praying that the Government will order the Court of Civil Judicature in which the cause may be cognisable to try the contested points or matters by the Regulations or Acts. If the Government shall deem proper to grant the prayer of such petition, and the plaintiff shall file an order to the above effect with the clerk or proper officer of the Court; or if a plaintiff shall, in the first instance, with his application for a summons in a case of the aforesaid description, produce an order from the Government to the effect aforesaid, and it shall appear to the Judge that the case is within his jurisdiction and cognisable under the order, he shall direct the summons to be issued to the officer by whom the act complained of may have been done, in the same way as is hereinbefore prescribed for the issuing of summonses to private individuals; and in no case shall a summons be issued to any defendant in a case of the nature aforesaid, without an order to the effect aforesaid.

40. If it shall appear that the act complained of was done without any order of the Government or of the Board of Revenue, and that the act complained of is one for which the officer by whom it was done is declared

In cases where the Civil Courts have direct jurisdiction against the Officers of the Government, the Judge is to refer to the Board of Revenue.

amenable under the Regulations of the Madras Code, or the Acts of the Council of India, the Judge shall transmit the particulars of the claim as set forth in the Register referred to in Article 7 of this Chapter, to the Board of Revenue, together with copies of any documents or instruments in writing that may have been delivered to the clerk or proper officer of the Court at the time of applying for the summons for the purpose of being served therewith.

41. The Board of Revenue, after making due inquiries on the subject, shall determine whether the party complaining is entitled to redress directly from Government, or whether he shall be left to prosecute the case in the regular course of law; and if they shall be of opinion that the party should be left to prosecute the case in the regular course of law, they shall inform the Judge by whom the case may have been referred to them of their determination to that effect, and also whether the case is to be defended by the public officer as a suit against the Government, or by the person affected by the complaint in his individual capacity.

42. At the expiration of six weeks from the transmission, or at any earlier period when the Judge may receive intimation from the Board of Revenue that it has been decided that the party complaining shall be left to prosecute his case in the regular course of law, the Judge shall direct a summons to be issued to the officer whose act has been complained of, in the same manner as is hereinbefore prescribed for the issuing of summonses to private individuals.

Of Arrest before Judgment.

43. If in any suit the defendant, with intent to avoid or delay the plaintiff, is about to leave the jurisdiction, the plaintiff may, either at the institution of the suit, or at any time thereafter until

final judgment, make an application to the Court to demand that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

44. If the Court, after examining the applicant, and making such further investigation as it may consider necessary, shall

be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction, with the intent of avoiding or delaying the plaintiff, it shall issue a warrant to the proper officer, enjoining him to bring the defendant before the Court, that he may give good and sufficient bail for his appearance at any time when called upon while the suit is pending, and until execution of any decree that may be passed against him in the suit; the surety or sureties undertaking, in default of such appearance, to pay, to an extent to be fixed by the Judge and specified in the warrant, any sum of money that may be adjudged against him in the suit, with costs.

45. The sureties for the personal appearance of the defendant may at any time apply to the Court to be relieved from their engagements as sureties, whereupon the Court shall issue its warrant, directing that the defendant be brought before it. On the appearance of the defendant to such warrant, or on his voluntary surrender, the Judge shall direct the engagement of the sureties to be cancelled, and shall call upon the defendant to give fresh security, and in default thereof shall commit him to custody.

Sureties may apply to be relieved from their engagements.

46. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit, and forthwith discharge the defendant.

47. In the event of the defendant neither furnishing security, nor offering a sufficient deposit, he may be committed to custody until the decree shall have been passed.

48. If in any suit the defendant is about to leave the territories of the East India Company, with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court, to the effect and in the manner aforesaid, and the procedure shall be in all respects the same as hereinbefore provided.

Of Sequestration before Judgment.

49. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property, or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, it shall be lawful for the Court, on the application of the plaintiff in manner aforesaid, either at the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, when required; and, on his failing to give such security, to direct that any property, real or personal, belonging to the defendant, or any debts due to him, or any money standing in his name or to his account, and in deposit in any Court of Justice, or any office of Government, or at his credit in any bank, or any interest or dividends payable or thereafter to become payable on any Government paper or shares in the capital or joint-stock of any banking, railway, or other public company or corporation, standing in his name, or such a portion of such property, debts, or money, as may be sufficient to fulfil the decree, shall be attached and held in sequestration until the further order of the Court.

50. The application shall be accompanied with the following particulars distinctly written in the language in use in proceedings before the Court, namely the nature and amount of the claim, the property required to be sequestered, and the supposed value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the claim is a just one, and that the defendant is about to dispose of or remove his property in manner aforesaid.

51. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall

Defendant may be called on for security.

be satisfied that the defendant intends to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, and if the plaintiff shall in person or by his agent enter into a bond rendering himself liable in such sum as may be judged adequate for all injury arising from the sequestration, in the event of his demand being disallowed, either wholly or in part, the Court shall thereupon issue a warrant to the proper officer, commanding him to require security from the defendant, in such sum as may be specified in the order, to produce and place at the Court's disposal, when required, the said property, or a portion thereof sufficient to fulfil the decree.

52. If such security is not furnished within the time specified in the order, the Court shall direct that the property, debts, or money mentioned in the particulars which accompanied the plaintiff's application, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached, and kept under sequestration until further order.

53. The process for requiring security and for attachment and sequestration, when the property shall consist of goods and chattels, or other personal estate and effects, may be issued successively or simultaneously, as the Court shall think proper.

54. The attachment and sequestration shall be made, according to the respective natures of the property to be attached and sequestered, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money.

55. In all cases of sequestration before judgment, the Court which passed the order for the sequestration shall at any time remove the same, on the defendant's furnishing security as above required, together with security for the costs of the sequestration.

56. If on the trial of the suit it shall be discovered that the sequestration was applied for on insufficient grounds, or if the plaintiff's claim is disallowed, either wholly or in part, the Court shall (unless the defendant shall in preference seek redress by a civil action for damages) award against the plaintiff in its decree the whole of the amount specified in his penalty bond, or such part thereof as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the plaintiff.

57. Sequestrations before judgment shall not bar any person holding a decree against the defendant from attaching the property under sequestration, or affect the rights of persons not parties to the suit.

58. But if the party at whose instance the property was sequestered points out other property of the defendant unattached, the creditor shall be bound in the first instance to attach and sell such property in execution of his decree before selling the property under sequestration.

59. Whenever lands paying revenue to Government form the subject of a suit, if the party in possession of such lands shall neglect to pay the Government revenue, and a public

Special case in which plaintiff may be put in immediate possession of land the subject of suit.

sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands, and shall be entitled to charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the cause.

Of Injunctions.

60. In any suit in which it shall be shown to

Cases in which an injunction to stay waste may be granted.

the satisfaction of the Court that any property which is in dispute in the cause is in danger of being wasted or damaged by any party to the suit, it shall be lawful to the Court to issue its injunction to such party, commanding him to refrain from doing the particular act or acts complained of, or to give such other orders for the purpose of staying and preventing him from wasting or damaging the property as to the Court may seem meet.

And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a cause, it shall be lawful to the Court to appoint a receiver or manager of such property, and, if need be, to remove the person or persons in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper.

61. In any suit for restraining the defendant

Special rule in actions for injunctions.

from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff at any time after the commencement of the suit, and whether before or after judgment, to apply *ex parte* to the Court for an injunction to restrain the defendant from the repetition or the continuance of the wrongful act or breach of contract complained of, or the committal of any breach of contract, or injury of a like kind, arising out of the same contract or relating to the same property or right; and such injunction may be granted or denied by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just; and in case of disobedience, such injunction may be enforced by imprisonment in the same manner as a decree for specific performance: provided always, that any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Of Withdrawing Suits.

62. If the Plaintiff be desirous of withdrawing

How the Plaintiff may withdraw from a suit.

from the cause, he may give notice thereof to the clerk or proper officer in person, or by his vakeel, and to the defendant by prepaid registered post letter; after the receipt of which by the defendant he shall not be entitled to any further costs than those incurred up to its receipt, unless the Judge shall otherwise order; and proof that the letter was duly posted shall be sufficient proof of the receipt thereof by the defendant, in the absence of evidence to the contrary.

63. If the notice be given to the officer at any

Effects of withdrawal.

time before the day mentioned in the summons, for the appearance of the defendant, the plaintiff shall be at liberty to bring a fresh suit for the same matter, unless precluded by the rules for the limitation of actions. If the notice be given on or subsequent to such day, the plaintiff shall be precluded from bringing a fresh suit for the same matter, unless he shall have previously obtained the consent of the defendant, or the permission of the Judge to withdraw the suit. It shall be competent to the Judge at any time before final judgment to grant such permission on what may appear to him sufficient grounds for so doing, and on such terms as to costs or otherwise as he may deem proper.

Of the Death, Murrage, and Bankruptcy or Insolvency of Parties.

64. The death of a plaintiff or defendant shall

Suit not to abate by death.

not cause the suit to abate. A note of the death shall be entered on the register of the suit, and the suit may be continued as hereinafter mentioned.

65. If there be two or more plaintiffs or de-

Proceedings in case of death of one or more of several plaintiffs or defendants.

fendants, and one or more of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.

66. If there be two or more plaintiffs, and

Proceeding in case of death of one or more of several plaintiffs, where the right of action accrues to the survivor and the representative of the deceased.

one or more of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall accrue to them and the legal representative or representatives of the deceased plaintiff or plaintiffs, the Court may, on the application of the legal representative or representatives of the deceased plaintiff or plaintiffs, enter the name or names of such representative or representatives in the register of the suit in the place or stead of such deceased plaintiff or plaintiffs, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and such legal representative or representatives of the deceased plaintiff or plaintiffs; and if the application be made before the trial, and there be any dispute as to the fact of the person or persons so applying being the legal representative or representatives of the deceased plaintiff

or plaintiffs, the truth thereof shall be tried thereat, together with the title of the deceased plaintiff or plaintiffs, and judgment shall be given in favour of or against the person or persons making such application, as if such person or persons were originally a plaintiff or plaintiffs. If no application shall be made to the Court by any person or persons claiming to be the legal representative or representatives of the deceased plaintiff or plaintiffs, the Court shall direct a proclamation to be issued and published in the manner prescribed in Articles 35 and 36 of this Chapter, calling upon the legal representative or representatives of the deceased plaintiff or plaintiffs to appear on a day to be fixed in such proclamation, and to proceed with the suit in his or their stead. If any person or persons shall appear on the day mentioned in the proclamation, to proceed with the suit as the legal representative or representatives of the deceased plaintiff or plaintiffs, his or their name or names shall be entered in the register of the suit, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and such person or persons so appearing as the legal representative or representatives of the deceased plaintiff or plaintiffs; and if the appearance be made before the trial, and there be any dispute as to the fact of the person or persons so appearing being the legal representative or representatives of the deceased plaintiff or plaintiffs, the truth thereof shall be tried thereat, together with the title of the deceased plaintiff or plaintiffs, and judgment shall be given in favour of or against the person or persons so appearing, as if such person or persons were originally a plaintiff or plaintiffs. And if no person shall appear on the day to be fixed in the said proclamation, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and if judgment be given in favour of the defendant, the legal representative or representatives of the deceased plaintiff or plaintiffs shall be bound thereby equally with the surviving plaintiff or plaintiffs; but if judgment be given against the defendant or defendants, it shall only be to the extent of the share or shares of the surviving plaintiff or plaintiffs, and with a reservation of the rights of the legal representative or representatives of the deceased plaintiff or plaintiffs.

67. In case of the death of a sole plaintiff or sole surviving plaintiff,

Proceeding in case of death of sole or sole surviving plaintiff.

the Court may, on the application of the legal representative or repre-

sentatives of such plaintiff, enter the name of such representative or representatives in the place or stead of such plaintiff in the register of the suit, and the suit shall thereupon proceed; and if such application be made before the trial, and the fact be disputed, the truth thereof shall be tried thereat, with the title of the deceased plaintiff, and judgment shall be given in favour of or against the person or persons making the application, as if such person or persons were originally the plaintiff or plaintiffs. If no application shall be made to the Court within what it may consider a reasonable time, by any person or persons claiming to be the legal representative or representatives of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award the defendant the reasonable costs which he may have incurred in defending the suit, to be recovered from the estate or estates of the deceased sole plaintiff or surviving plaintiff, or, if the Judge shall think

proper, he may, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative or representatives of the deceased sole plaintiff or surviving plaintiff, and prosecuting the suit to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

68. If there be two or more defendants, and

Proceeding in case of death of one or more of several defendants, or of a sole or sole surviving defendant.

one or more of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a

sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the clerk or other proper officer of the Court, with the following particulars distinctly written in the language in ordinary use in judicial proceedings before the Court, namely the name, description, and place of abode of any person or persons whom he alleges to be the legal representative or representatives of such defendant or defendants, and whom he desires to be made the defendant or defendants in his or their stead; and the clerk or other proper officer of the Court shall thereupon enter the name of such representative or representatives in the register of the suit in the place or stead of such defendant or defendants, and shall issue a summons to him or them to appear on a day to be therein mentioned, to defend the suit. If no application shall be made to the Court, the Court shall direct a proclamation to be issued and published in the manner prescribed in Articles 35 and 36 of this Chapter, calling upon the legal representative or representatives of such defendant or defendants to appear on a day to be fixed in such proclamation, and defend the suit. If any person or persons shall appear on the day mentioned in the proclamation, to make defence to the suit as the legal representative or representatives of the deceased, his or their name or names shall be entered in the register of the suit, in the stead of the deceased defendant or defendants, and the suit shall proceed in the same way as if such person or persons had been originally a defendant or defendants thereto. And if no person shall appear on the day to be fixed in the said proclamation, the Court may proceed to dispose of the cause in the manner provided in Article 74 of this Chapter, or may make such order as may appear to be just and proper in the circumstances of the case.

69. In all cases in which the legal representative or representatives of a

Objections which are competent to the new defendant.

deceased defendant or defendants shall be entered in the register, in the

stead of such deceased defendant or defendants, if the issues shall not have been settled before the death, the new defendant or defendants shall be entitled to make all objections which would have been competent to the deceased defendant or defendants, and in addition thereto may make such other objections to the suit as may be appropriate to, and rendered necessary by, his or their character of legal representative; but if the issues shall have been settled before the death, the new defendant or defendants shall be at liberty to object only by way of denial, or to make such other objection only as may be appropriate to and rendered necessary by his or their character of legal representative, unless by the

leave of the Judge he or they shall be permitted to object fresh matters ; and in case the plaintiff shall recover, he shall be entitled to the like judgment in respect of the debt or sums sought to be recovered, and in respect of the costs prior to the entry of the name of the new defendant or defendants, as he would have been entitled to against the original defendant or defendants, and in respect of the costs subsequent thereto he shall be entitled to the like judgment as in an action originally commenced against the legal representative.

70. The marriage of a woman, plaintiff or defendant, shall not cause

Marriage of a female plaintiff or defendant not to abate the suit.

the suit to abate, but the suit may, notwithstanding, be proceeded with to judgment,

and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued, upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree; and if in any such suit the wife shall sue or defend by a vakeel appointed by her when sole, such vakeel shall have authority to continue the action or defence, unless such authority be countermanded by the husband, and the vakeel changed by authority of the Court.

71. The bankruptcy or insolvency of the plaintiff in any suit which

Bankruptcy or insolvency when not to abate the suit.

the assignees might maintain for the benefit of the

creditors shall not be a valid objection to the continuance of such suit, unless the assignees shall decline to continue the suit, and give security for the costs thereof, within such reasonable time as the Judge may order; but the proceedings may be stayed until such election is made; and in case the assignees neglect or refuse to continue the suit, and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, object to bankruptcy or insolvency as a reason for abating the suit.

Of Notices to produce, and how they are to be served.

72. Whenever any of the parties to a suit is

Two notices in writing to be delivered to the proper officer of the Court.

desirous that any document, writing, or other thing, which he supposes to be in the possession or

power of another of the parties thereto, should be produced at any hearing of the cause, he shall at the earliest opportunity deliver to the clerk or proper officer of the Court two notices in writing to the party in whose possession or power he supposes the document, writing, or other thing to be, calling upon him to produce the document, writing, or other thing, on the day on which he wishes the same to be produced; and one of such notices shall be retained by the officer, and the other shall be delivered by him to the bailiff or proper officer, to be served in the manner hereinafter mentioned:—

(1.) If the party on whom the notice is to be

How the notice is to be served.

served shall have employed a vakeel to act for him in the cause, the notice shall be served on such vakeel, by delivering the

notice to him personally, or by leaving it at his office, or ordinary place of residence.

(2.) If the party shall not have employed a vakeel to act for him in the cause, and shall have his place of abode within eight miles from the Court-house by the nearest road, the notice shall be served on him by delivering it to him personally, or leaving it at his place of abode.

(3.) If the party shall not have employed a vakeel to act for him in the cause, and shall not have his place of abode within eight miles from the Court-house by the nearest road, but shall have entered in the book, to be kept for that purpose by the proper officer, the name and place of abode of some person residing within such distance of the Court-house on whom he may wish that all notices or process in the cause should be served on his behalf, the notice shall be served by delivering the same to such person, or by leaving it at his place of abode.

(4.) If the party shall not have employed a vakeel to act for him in the cause, and shall neither have his own place of abode within eight miles from the Court-house by the nearest road, nor shall have entered in the book, to be kept for that purpose, the name and place of abode of some person residing within such distance of the Court-house on whom he may wish that all notices or process in the cause should be served on his behalf, the notice shall in like manner be served by delivering the same to the party in person, or by leaving it at his place of abode; unless the notice be for some day subsequent to the first hearing of the cause, in which case it shall be sufficient service of the notice if it be fixed up in some conspicuous place in the office of the clerk or proper officer of the Court, and also in some conspicuous place of the Court-house.

Of the Appearance of the Parties, and Judgment by Default for Non-Appearance.

73. On the day in that behalf mentioned in the

Parties must appear in person or by vakeel.

summons, and from day to day, if necessary, until

the cause is called on, the parties shall be in attendance at the Court-house in person or by a vakeel of the Court duly empowered to represent them in all matters relating to the prosecution or defence of the action, as the case may be.

74. If, on the day fixed for the hearing of the

Consequences of non-appearance of a sole plaintiff or defendant.

cause, or any other day subsequent thereto, on which the cause may be called on, neither party

appears, either in person or by a vakeel of the Court, when duly called upon by the proper officer of the Court, the cause shall be struck out, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules for the limitation of actions. If the plaintiff shall appear in person or by a vakeel, and the defendant shall not appear in person or by a vakeel, and it shall be proved to the satisfaction of the Judge that the summons was duly served, or if the defendant, having appeared in person or by a vakeel, shall refuse to answer to the claim of the plaintiff, then, and in any of these cases, the Judge shall pass judgment against him by default. And in like manner, if the defendant shall appear in person or by a vakeel, and the plaintiff shall not appear in person or by a vakeel, or, having appeared, shall refuse to state his claim or to answer any

questions respecting the same that the Judge may think proper to put to him, then, and in any of these cases, the Judge shall pass judgment against the plaintiff by default.

75. When there are two or more plaintiffs, any one or more of them may be authorised to appear, plead, and act for the other or others of them; and in like manner, when there are two or more defendants, any one or more of them may be authorised to appear, plead, and act for the other or others of them; provided that the authority shall in all cases be in writing, and shall be filed with the proper officer of the Court. When so filed, it shall be as effectual to all intents and purposes as if the person so authorised to appear, plead, and act, were a vakeel of the Court.

76. Nothing in the preceding Article contained shall be taken to prevent any one of two or more plaintiffs or defendants from appearing for the other or others of them respectively, without any special authority, when already entitled by law so to do by reason of unity of interest in the matter in dispute, or otherwise howsoever.

77. If there are two or more plaintiffs, and one or more of them shall appear in person, or by vakeel, or by a co-plaintiff or co-plaintiffs duly authorised or entitled as aforesaid, and the other or others of them shall not appear in person, or by vakeel, or by a co-plaintiff or co-plaintiffs duly authorised or entitled as aforesaid, it shall be competent to the Judge to proceed with the suit at the instance of the other plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants,

and one or more of them shall appear in person, or by vakeel, or by a co-defendant or co-defendants duly authorised or entitled as aforesaid, and the other or others of them shall not appear in person, or by vakeel, or by a co-defendant or co-defendants duly authorised or entitled as aforesaid, and if the plaintiff or plaintiffs shall consent to abandon the suit against the defendant or defendants who shall have appeared, and if judgment by default can be given against the defendant or defendants who shall not have appeared, without detriment to the rights or interests of the other defendant or defendants, judgment may be given by default against the defendant or defendants who shall have so failed to appear, upon such terms as to the costs of the other defendant or defendants, or otherwise, as to the Judge may seem proper; but if the plaintiff or plaintiffs shall not agree to abandon the suit against the defendant or defendants who shall have appeared, or if judgment cannot be given by default against the defendant or defendants who shall not have appeared, without detriment to the rights or interests of the defendant or defendants who shall have appeared, the Judge shall proceed with the cause to judgment, and shall, at the time of passing his judgment, give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in the circumstances of the case.

78. In all cases of judgment against a defendant by default, for non-appearance, he may apply, at any time before the same shall have been finally executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Judge that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the cause was called on for hearing, the Judge shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the cause. And in like manner, in all cases of judgment against a plaintiff by default for non-appearance, he may apply, within a reasonable time, for an order to set aside the judgment; and if it shall be proved to the satisfaction of the Judge that the plaintiff was prevented by any sufficient cause from appearing when the cause was called on for hearing, the Judge shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the cause. In all cases whatsoever of judgment by default, in which a Judge shall pass an order for setting aside the judgment, his order shall be final; but in all cases in which he shall reject an application to set aside a judgment by default, an appeal shall lie from his order refusing the application, to the tribunal to which his final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision.

79. If it shall not be proved to the satisfaction of the Judge that the summons was duly served on the defendant in sufficient time to enable him to appear in person or by vakeel on the day fixed for the hearing of the cause, the Judge shall, at the option of the plaintiff, either postpone the cause to a future day, and grant him a second summons to the defendant, to be served in like manner as aforesaid, in continuation of the existing suit, or permit him to withdraw his suit; and if he shall elect to withdraw his suit, he shall be at liberty to institute a fresh suit for the same matter against the defendant in the same Court, or in any other Court of competent jurisdiction, at any time, unless precluded by the rules for the limitation of actions.

When the defendant has not been summoned in sufficient time, the plaintiff may apply for a new summons, or bring fresh suit.

Of the Examination of the Parties.

80. In all suits in which both the parties appear in person or by a vakeel before the Judge, they or their vakeels may be examined orally by the Judge, and it shall be incumbent on them respectively to answer such questions in regard to the suit as he may think proper to put to them.

81. If any of the parties shall appear by a vakeel of the Court, and such vakeel shall refuse, or be unable to answer any material question relating to the case, which the Judge is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Judge shall postpone the hearing of the cause to a future day, and direct that the party whose vakeel may have refused, or been unable to

Consequence of refusal or inability of vakeel to answer.

115. If the person required to attend, be resident within the jurisdiction of any other Court than that in which the suit is pending, summons shall be transmitted by the clerk or proper officer of the Court in which the suit is pending, to the clerk or proper officer of the Court within whose jurisdiction the person required to attend may reside; and the clerk or proper officer of the lastmentioned Court shall, upon receipt thereof, deliver the same to the bailiff or other proper officer of his own Court, to be served in the manner above directed; and upon the return of the summons by the serving officer, it shall be transmitted to the clerk or proper officer of the Court from whence it originally issued.

116. If any person for whose attendance, either to give evidence or to produce a document, a summons shall be issued, cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness absconds or keeps out of the way, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon or near to his house or place of abode; and if such person shall not attend at the time and place to be named in such proclamation, his property (real and personal), to such amount as the Court shall deem reasonable (but subject to the same limitation as to the articles exempt from attachment, as in case of attachment for arrears of rent), shall be liable, under an order of the Court, to attachment and sale.

117. The cost of the attachment shall be borne in the first instance by the party applying for it, and the Court issuing the summons and attachment shall not proceed to sale of the property if the witness shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of a summons, and that he had not notice of the proclamation in time to attend at the time and place named therein. Upon the appearance of such witness the Court shall make such order in regard to the costs of the attachment as it shall deem fit. If the witness appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of a summons, and that he had not such a notice of the proclamation as aforesaid, it shall be in the discretion of the Court to order the property attached, or any part thereof, to be forfeited and sold for the purpose of satisfying all costs incurred in consequence of such default, or absconding, or keeping out of the way, and any fine which the Court may deem fit to impose upon the witness under the provisions of Article 2 Chapter VI., or the Court may order the property to be released from the attachment upon payment of such costs and fine as aforesaid.

Of the Examination of Parties as Witnesses.

118. When a party to a suit appears in person at any hearing of the cause, he may be examined.

mined as a witness either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

119. If any party to the suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his vakeel, make a special application to the Court for an order that the party do attend, and shall show, to the satisfaction of the Court, sufficient grounds in support of such application, otherwise a summons shall not be issued.

120. The Court, if it think fit so to do, may, before making such order, cause notice to be given to the party or his vakeel, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient cause, enlarge the time for such application.

121. In support of the cause shown, the Court may receive a written declaration in support of the cause shown. shall receive any declaration in writing of the party, if signed by him and delivered into the Court by himself or his vakeel.

122. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

Attendance of Witnesses, and consequence of Non-attendance.

123. Any person who shall be summoned to appear and give evidence in a cause shall be bound to attend at the time and place named for that purpose.

124. If any witness, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Article 112 of this Chapter, shall, without lawful excuse, fail to comply with such summons, the Court may issue an order to the bailiff or other proper officer to apprehend and bring the witness before the Court. If any such person abscond or keep out of the way, so that he cannot be seized or brought before the Court, his property shall be liable to attachment and sale in the same manner as is provided in Article 116 of this Chapter with respect to a witness on whom the service of a summons cannot be effected.

125. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition as hereinafter required, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the mean time, consent to give his evidence, or to sign his deposition, or to pro-

duce the document; after which, in the event of his persisting in his refusal, the Court may proceed to deal with him according to the provisions of Article 2 Chapter VI.

126. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to

Consequence of non-attendance or refusal of a party.

comply with such order, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, as in case of default, or give such other order in relation to the cause as the Court may deem proper in the circumstances of the case.

127. Any person present in Court, whether a party or not, may be called upon by the Court to give evidence, and to produce any document then and there in his actual

possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be dealt with for any refusal to obey the order of the Court.

When and how Witnesses are to be Examined.

128. On the day appointed for the hearing or trial of the cause, or on some other day to which the hearing or trial may be adjourned, the evidence of the attending witnesses

Witnesses must be examined at the hearing of the cause in open Court in the presence of the Judge.

shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. In cases in which an appeal may lie to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit, or their vakeels. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any party or his vakeel shall require it. If any question put to a witness be objected to by either of the parties, or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanour of the witness while under

examination. In cases where an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witness in writing at length; but the Judge shall make a short memorandum of the substance of what each witness may have deposed at the trial of the cause, and such memorandum shall be written and signed with his own hand, and shall form part of the record.

129. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party, at any time after summons issued, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the other party if the day be fixed in his absence. The witness shall be examined, and his deposition shall be taken down in writing in the manner hereinafter prescribed; and the deposition so taken down may be read in evidence at the trial, or any hearing of the cause.

130. All witnesses shall be examined without oath or affirmation, or any warning as a necessary preliminary to their giving evidence, and they shall, upon such examination, be bound to speak the truth as they would have been bound by an oath, or a sanction tantamount to an oath.

Witnesses to be examined without oath, affirmation, or warning.

Of Commissions to examine absent Witnesses, and make local Inquiries.

131. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Judge to be personally examined, or is a person exempted by law absolutely, or at the discretion of the Court, by reason of rank, sex, or other special cause, from personal appearance in Court, the Court may, on the application of any of the parties to the suit, order a Commission to issue for the examination of the witness on interrogatories or otherwise, and may, by the same or any subsequent order or orders, give all such directions for taking such examinations, as well within the jurisdiction of the Court wherein the suit shall be pending as without, as may appear reasonable and just. If the witness

be resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Judge may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of

Where the witness is within the Court's jurisdiction.

Where the witness is beyond the Court's jurisdiction.

Her Majesty's Supreme Court, but within its general jurisdiction, the Commission shall ordinarily be issued to the Court within whose particular jurisdiction the witness may reside, or which can

most conveniently execute the same; but under special circumstances, which may appear to render a different course expedient, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

132. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes at Madras, but may, under special circumstances, be directed to any other person or persons whom the Court issuing the Commission may think proper to appoint.

133. Where the evidence is required of a witness who is resident at some place beyond the general jurisdiction of the Sudder Court, the application for a Commission to examine the witness must in all cases be made to the Sudder Court. If the suit in which the evidence of the witness is required be pending in some other Court than the Sudder Court, the application must be accompanied by a certificate from the Court in which the suit is pending, that the application is made with its permission. In all cases of an application to the Sudder Court for a Commission to examine a witness, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint; and whenever a Commission is issued from the Sudder Court for examination of a witness in a suit pending in any other Court, the Commission shall be made returnable to the Court in which the suit is pending.

134. After the Commission has been duly executed, it shall be returned, together with the deposition or depositions of the witness or witnesses who may have been examined thereunder, to the Court out of which the Commission issued (except as in the last preceding Article mentioned), unless otherwise directed by the order for issuing the Commission, and then it shall be returned in terms of such order, and the Commission and the return thereto, and the deposition or depositions of the witness or witnesses who may have been examined under such Commission, shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by law absolutely, or at the discretion of the Court, from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorise the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same; and after the witness shall be produced, and shall have delivered his testimony, it shall be lawful for the Court, at its discretion, to authorise

the reading of the deposition. And all depositions taken under any Commission which may be issued as aforesaid, being duly certified, may be read, at the discretion of the Court, without proof of the signature to such certificate.

135. In suits regarding lands or houses, or their limits or boundaries, in which the Court may deem a local investigation Commission for local investigations.

to be requisite or proper, for the purpose of elucidating the matters in dispute, the Court may issue a Commission to any person whom it may think proper to appoint, directing him to make such investigation, and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine, not only such witnesses as may be produced to him by the parties or any of them, but any other person or persons whom he may think proper to call upon to give evidence in the matters referred to him; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the Commissioner during the investigation of the matters committed to him, shall be subject to the like disadvantages, penalties, and punishments, by orders made by the Commissioner, as they would incur for the same offences in suits tried before the Court; provided that the Commissioner shall report the order to the Court, and obtain its consent thereto, which is to be signified by the Judge's signing the order. The Commissioner shall, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions of such witnesses as he may have examined, shall return the depositions, together with his report in writing, subscribed with his name, to the Court issuing the Commission. The report and depositions shall be taken as evidence in the cause, and shall form part of the record; but it shall be competent to the Court, or to the parties, or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him, or mentioned in his report, or the manner in which he may have conducted the investigation. The Court may order such sum to be paid to the Commissioner as may be thought reasonable for his trouble and expenses, and the sum so ordered to be paid shall be considered as costs in the cause, unless the Court shall otherwise direct.

The report of the Commissioner to be taken as evidence in the cause, but he may be examined in person.

136. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Judge to appoint any person whom he may think proper to be a Commissioner, for the purpose of making such investigation or adjustment, and to direct that the parties, or their attorneys or vakeels, shall attend upon the Commissioner during such investigation or adjustment. In all such cases the Judge shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to

A Commissioner may be appointed to investigate and adjust accounts.

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transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner are to be received in evidence in the case, unless the Judge may have reason to be dissatisfied with them; in which case he will make such further inquiry as may be requisite, and will pass such ultimate judgment or order as may appear to him to be right and proper in the circumstances of the case.

Of Judgment and Decree.

137. When the exhibits have been perused

When judgment is to be pronounced.

and considered, and the witnesses examined, and the parties have been heard in person, or by their respective vakeels, the Court shall pronounce its judgment, either immediately, or on some future day, of which due notice shall be given to the parties or their vakeels.

138. In any suit concerning the succession or

Rights of all the heirs to be declared in cases of succession.

right of inheritance to any zemindary, talook, land, house, or other real property, where more persons than one would, by the Hindoo or Mahomedan law, be entitled to a portion of the estate, the decree shall adjudge the property, as far as may be practicable, among all the heirs, in the proportions to which they may be respectively entitled.

139. In all suits in which issues have been framed,

The Judge to state his decision on each issue.

ed, the Judge shall state his finding or decision on each separate issue.

140. The judgment shall in all cases direct by

And to direct by whom costs are to be paid.

whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Judge shall have full power to award and apportion costs in any manner he may deem proper, except in so far as is herein otherwise provided.

141. Under the denomination of costs are included

What is included in costs.

the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree that may have been passed therein, such as the expense of stamp, summoning the defendants, fees of vakeels, or copies of documents required to be made, and subsistence money to peons or other persons employed in serving processes, charges of witnesses, and sums awarded to Commissioners either in taking evidence or in local investigations.

142. The judgment shall be pronounced in

How the judgment is to be delivered.

open Court, and in all Courts it shall be imperative on the Judge to state the reasons for his judgment at the time of pronouncing the same. The judgment shall in all cases be written out and signed by the Judge. The judgment shall be written out in the vernacular language of the Judge, except when the Judge, being a native of the country, and sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, may prefer to write his judgment in English, and in that case the judgment may be written out in the English language. Whenever the judgment is written out in any other language than

that which is in ordinary use in the proceedings before the Court, the judgment shall be translated into such language so being in ordinary use in the Court, and the translation shall also be signed by the Judge.

143. The decree shall bear date the day on

What the decree is to contain.

which the judgment was passed, and shall contain the number of the suit, the

names and descriptions of the parties, and particulars of the claim as stated in the register of the suit, the title of every exhibit produced in the cause, and the names of any witnesses who may have been examined, and a distinct statement of the issues when any may have been framed. It shall also contain an exact copy of the ordering part of the judgment, or a translation thereof, in the language in ordinary use in proceedings before the Court, and shall be sealed with the seal of the Court, and signed by the Judge.

144. Copies of the decree shall be furnished

Copies of the decree to be furnished.

to the parties or their vakeels on application to the clerk or other proper officer of the Court.

145. When a native officer or soldier in the

When a native officer or soldier is a party to the suit, a copy of the decree is to be sent to his commanding officer.

service of the Government is a party to a suit, and is not present at the time of its decision, an authenticated copy of the

decree shall be transmitted by the Court to the commanding officer of the corps or detachment to which such native officer or soldier shall belong, for the purpose of its being communicated to him.

Chapter V.

EXECUTION OR ENFORCEMENT OF DECREES.

1. If the decree be for land or other immove-

How decrees are to be enforced.

able property, the same shall be delivered over to the party to whom the

same may have been adjudged; if the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by imprisonment of the party adjudged to perform the same, or by attaching his or their property, and keeping the same under sequestration until further order of the Court, or by both imprisonment and sequestration if necessary; if the decree be for money, it shall be enforced by the imprisonment of the party against whom the same may have been adjudged, or the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant.

Application for Execution.

2. The application for execution of a decree

Application for execution how to be made.

shall be made to the clerk or other proper officer of the Court by the appli-

cant in person, or through his vakeel in the cause, or some other vakeel duly appointed to act for him in that behalf, in manner hereinbefore mentioned.

3. If any person in whose favour a decree has

If the person by or against whom the decree has been obtained shall die or become bankrupt or insolvent, application for execution may be made by or against his legal representative.

been passed shall die, or become bankrupt or insolvent after such decree, and before execution shall be fully had thereon, application for execution of the decree may be made

by or on behalf of the legal representative or representatives, or the assignee or assignees, of the person so dying or becoming bankrupt or insolvent as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly. And, in like manner, if any person against whom a decree has been passed shall die after such decree, and before execution has been fully had thereon, application for execution thereof may be made against the legal representative or representatives, or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

4. The application for execution of a decree

Particulars to be given with the application.

shall be accompanied with the following particulars distinctly written in the language in ordinary use in proceedings before the Court, namely the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, if the suit were for money; the amount of costs, if any were awarded; the name of the person or persons against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person or persons named, or attachment of his or their property.

5. When the application is for an attachment

Further particulars when the application is for an attachment of immoveable property.

of the defendant's land or other immoveable property, it shall also be accompanied with an inventory or list of such property containing such a description of each item thereof as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief, and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government, or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the register of the Collector's office, specifying the jummal of such estate, and the names and shares of the registered proprietors.

6. Where the application is for an attachment

The application for an attachment of moveable property may be special or general.

of the defendant's moveable estate, or any part thereof, or of debts or money belonging to him, it may also be accom-

panied with an inventory or list of the property to be attached, containing a reasonably accurate description of each item thereof; or the plaintiff may apply for a general attachment of the defendant's moveable estate, debts, and money, wheresoever the same can be found, to the amount of the judgment and costs.

7. The clerk or other proper officer of the Court,

Duty of the officer on receiving the application.

on receiving any application for execution of a decree, accompanied with

the particulars above mentioned, or such of them as may be applicable to the case, shall compare the same with the original decree contained in the record of the cause; and, if they shall be found to correspond therewith, shall enter a note of the application, and the date on which it was made, in the register of the suit. If the particulars shall not be found to correspond with the original decree, the clerk or other proper officer shall either return them for correction to the person making the application, or shall, with the consent of such person, make the necessary correction himself.

Measures required in certain Cases preliminary to the Issue of the Warrant.

8. If an interval of more than one year shall

In certain special cases, the defendant may be called on to show cause.

have elapsed between the date of the decree and the application for its execution, or if the enforcement

of the decree be solicited by or against individuals, being heirs or representatives of the original parties in the suit, or against one only of several individuals equally affected by the decree, or if it shall appear that the matter in dispute has been adjusted by the parties subsequently to the decree, either by the voluntary surrender of the thing or property adjudged, or by the payment of the sum decreed, either in whole or in part, or by giving security for the same, or entering into an instalment bond or otherwise, or where the decree is for the delivery of a specific moveable, or for the specific performance of a contract, or any other particular act, and the application is for the enforcement thereof by imprisonment of the party adjudged to deliver or perform the same, the clerk or other proper officer of the Court shall, instead of proceeding to the immediate enforcement of the decree, submit the application for execution thereof to the Judge; and it shall be competent to the Judge, if he shall think proper, to issue a notice to the party against whom execution may be sued for, requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. If, upon such notice, the party shall not attend in person or by vakeel, or shall not show sufficient cause, to the satisfaction of the Court, why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by vakeel, and shall offer any objection to the enforcement of the decree, the Court shall issue such order as in the circumstances of the case may appear to be just and proper.

9. Where the application is for a general at-

Application for a general attachment of moveable property must be referred to the Judge.

tachment of the moveable estate of the defendant, the clerk or other proper officer of the Court shall submit the application to

the Judge, and it shall be competent to the Judge, if he shall think proper (and if the plaintiff shall in person, or by his agent, give security, to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person or persons than the defendant), to direct that an order do issue for the

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attachment of the defendant's moveable property wherever the same may be found, to the amount of the judgment and costs, or such other sum as may be specified in such order.

10. Before granting the order for a general attachment, or upon the application of the plaintiff at any time after judgment, and before complete execution of the decree, the Judge may summon the defendant, and examine him as to his property, and his means of satisfying the judgment, in the same way as if he were not a party to the suit.

11. If the decree be for a zemindary, talook, land, house, or other real estate or property, or any share therein, and the judgment shall have been passed against the defendant or defendants by default, the clerk or other proper officer of the Court, before proceeding to execute the decree, shall issue a proclamation, calling upon all persons having any claim to the property in question to appear on a certain day, to be specified in the proclamation, and which shall not be later than fifteen days from the date of the application for the execution of the decree, either in person or by an attorney or vakeel, and be prepared to state their claims to the Court, and support them by sufficient evidence.

12. The proclamation shall be read aloud by the bailiff or other proper officer in some public place within the limits of or adjacent to the zemindary, talook, land, house, or other real estate or property, for which, or a share in which, the judgment by default may have been given, and a copy thereof shall be fixed up in some conspicuous part of the Court-house; and if the judgment by default shall have been given by any Court subordinate to the Zillah Judge, a copy of the proclamation shall also be fixed up in the Court of the Zillah Judge, as well as in the Court of the particular Judge in whose Court the judgment may have been given.

13. If no claimant to the property shall appear on the day fixed in the proclamation, either in person or by vakeel, to offer any objection to the execution of the decree, the Court shall order the decree to be executed, in the same manner as if the judgment had not been given by default.

14. If, on the day fixed in the proclamation, any claimant to the property shall appear in person or by vakeel, and shall offer any objection to the enforcement of the decree, the Court shall proceed forthwith to investigate the same, in the like manner and with the like powers as if the claimant had been originally made a defendant to the suit, but shall restrict its inquiry to the fact of possession only; and if it shall appear to the satisfaction of the Court that the zemindary, talook, land, house, or other estate or property mentioned in the decree was not in the possession of the party against whom the judgment by default may have been given, nor in the occupancy of ryots, or cultivators, or other persons paying rent to him at the date of the commencement of the suit, the Judge shall pass an order to

stay execution of the decree, and shall call upon the party applying for execution thereof to show cause why the judgment should not be set aside and cancelled. And if the party shall fail to show such cause to the satisfaction of the Court, the Court shall forthwith cancel the said judgment, and an entry of the cancellation shall be made in the register of the suit. If it shall appear to the satisfaction of the Court that the zemindary, talook, land, house, or other estate or property mentioned in the decree, was in the possession of the party against whom the judgment by default was given, or in the occupancy of ryots, or cultivators, or other persons paying rent to him at the date of the commencement of the suit, it shall direct the decree to be executed in the same way as if the judgment had not been by default. The decision of the Court in the investigation mentioned in this Article shall not be subject to appeal, but the party against whom the same may be given shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

Issue of the Warrant.

15. When the clerk or other proper officer of the Court is satisfied as to the particulars above referred to, and all necessary preliminary measures have been taken when any such are required, he shall forthwith prepare and issue, under the seal of the Court, the proper warrants for the execution of the decree.

16. Every warrant for execution of decree shall bear date on the day on which the same shall be issued, and shall be sealed with the seal of the Court, and delivered to the bailiff or other proper officer. A day shall be specified at the bottom of the warrant on or before which it must be executed, and the bailiff or other proper officer shall in all cases endorse upon the order the day and the manner in which it was executed, and shall return it with such endorsement to the Court from which it issued.

Of the Execution of Decrees for Immoveable Property.

17. If the decree be for a house or other immoveable property not in the occupancy of ryots or other persons entitled to occupy the same, delivery thereof shall be made by putting the party to whom the house or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

18. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, delivery thereof shall be made by erecting a pole upon some place within or adjacent to the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, at some convenient place or places, the substance of the decree in regard to the property.

19. If the decree shall be for the possession of a zemindary, talook, land, house, or other real estate or property, or share therein, and the party or parties in whose favour the same shall have been adjudged shall be resisted or obstructed by any person or persons in obtaining effectual possession thereof, and shall make an application to the Court, either in person or by vakeel, at any time within one month from the date of the officer's return to the warrant for execution of the decree, the Court shall fix a day for investigating into the matter of his complaint; and if reasonable ground shall be shown, to the satisfaction of the Court, for believing that the obstruction or resistance in question has been occasioned by the defendant or defendants, or by some other person or persons at his or their instigation, the Court shall issue a summons to the defendant or defendants, calling upon him or them to appear on the day appointed for the investigation, to attend and give evidence.

Defendant may be summoned if suspected of implication.

20. In all cases in which a summons shall be issued for the attendance of a party at any time, or for any purpose after judgment, the summons shall be served in the manner hereinbefore prescribed for the service of a summons upon a witness, and if he cannot be served in either of the ways specified in Article 112 of Chapter IV., or if, after being served, he shall, without lawful excuse, fail to comply with such summons, or, attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, he shall be liable to be dealt with in the same way as if he were not a party to the suit, and as any other person would be dealt with in the like circumstances under Articles 116, 124, and 125 of Chapter IV., respectively.

Court how to proceed if he cannot be found or fails to attend.

21. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was caused or occasioned by the defendant or defendants, or by any other person or persons at his or their instigation, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or defendants, or some person or persons at his or their instigation, the Court may, without prejudice to the operation of the provisions of Article 2 Chapter IV., commit the defendant or defendants to close custody until further orders.

How defendant may be dealt with if he persists in obstructing the plaintiff.

22. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person or persons claiming *bonâ fide* to be in possession of the estate or property on his own account, or on account of some other person or persons than the defendant or defendants to the suit, the Court shall, without prejudice to the operation of the provisions of Article 2 Chapter VI., proceed to investigate the claim in the same manner and with the like powers as if the claimant had been made originally a defendant to the suit, and shall pass such order for

staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case; and the order of the Court shall not be subject to appeal, but the party against whom the same may be pronounced shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

Of the Execution of Decrees for Money by Attachment of Property.

23. If the decree be for money, and the person What property may be or persons applying for attached in execution of execution thereof shall decree.

desire that the amount shall be levied from the estate and property of the person or persons against whom the same may have been pronounced, the Court shall cause the attachment of any lands, houses, goods, chattels, effects, money, bank notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any railway, banking, or other public company or corporation, or other property whatsoever, moveable or immovable, belonging to the defendant or defendants, and whether the same be held in his or their own name or names, or by another person or other persons in trust for him or them, or on his or their behalf, to the amount or value of the sum decreed, and costs, or to such extent as may be deemed necessary for the purpose of securing the satisfaction and payment of such amount and costs.

24. Where the property shall consist of goods, chattels, effects, or other moveable estate, the attachment shall be made by actual seizure, and the bailiff or other officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

By seizure or by prohibitory order when it is real estate;

Where the property shall consist of lands, houses, or other immovable estate, the attachment may also be made by actual seizure, but it shall be in the option of the Court, if it shall think proper, instead of directing its officer to make seizure and assume possession of the property, to issue a written order prohibiting the sale, mortgage, gift, or other transfer thereof, and all persons from receiving or taking the same by purchase, gift, or otherwise howsoever, and also prohibiting all ryots or cultivators, and other tenants and occupiers of the land, from paying their rents to any person or persons whomsoever, until the further order of the Court; with permission in the mean time to pay their rents into Court, to the treasurer or other proper officer who may be authorised to receive or grant receipts for the same. Where the property shall consist in whole or in part of debts, or of shares in any railway, banking, or other public company or corporation, the attachment shall be made in all cases by a written order of the Court, prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person or persons whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiv-

By prohibitory order only when it is debts.

ing payment of any dividends thereof until such further order. Where the property shall consist in whole or in part of money standing in the name of the defendant, or to his account, and in deposit in any Court of Justice or office of Government, or of interest on Government paper, the attachment shall be made by a notice to such Court or office, requesting that the money or interest may be held subject to the further orders of the Court by which the notice may be issued.

25. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to the same lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and also in the cutcherry of the Collector of the zillah in which the lands, houses, or other immoveable property may be situated. In the case of debts, the written order shall also be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any railway, banking, or other public company or corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be sent to the manager, secretary, or other proper officer of the company.

26. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property or shares attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends to the defendant or defendants, during the continuance of the attachment, shall be null and void.

27. In all cases of attachment under the preceding Articles, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank notes, or a sufficient part thereof, shall be paid over and delivered to the party or parties applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank notes, so far as may be necessary for the satisfaction of the decree, shall be transferred and delivered to the party or parties applying for execution of the decree, if he or they shall be disposed to accept the same in satisfaction or part satisfaction of the amount decreed and costs, at the market value or such price as the Court may deem fair and reasonable; or that any part of the property so attached shall be sold, and that the money which may be realised by such sale, or a sufficient part thereof, shall be paid to such party or parties.

28. Where the property attached shall consist of debts due and owing to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable estate or property, it shall further be competent to the Court to appoint a manager of the said estate or property, with power to sue for and compound for the debts, and to collect the rents or other receipts and profits, or to raise money by mortgage or conditional sale of the land or other immoveable property, and to make and execute such deeds or instruments in writing as may be necessary or requisite for the purpose, and to pay and apply the same rents, profits, or receipts, or money so to be raised, towards the payment and satisfaction of the amount of the decree and costs; and in any case in which a manager shall be appointed, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

29. When full satisfaction shall be made of the amount decreed and costs, with all charges and expenses which may be incurred by the said attachment, or the same shall be otherwise paid and satisfied by the defendant or defendants, the attachment shall be forthwith released; and if the defendant or defendants shall desire that due intimation shall be given of such release, the order for the release of the attachment shall, at his or their expense, be proclaimed and intimated in the same manner as hereinbefore prescribed for the proclamation of the attachment.

Of Claims to Attached Property.

30. In the event of any claim being preferred to or objection offered against the sale of lands, or any other real or personal property which may have been attached in execution of a decree, or under and by virtue of any order for sequestration which may be passed before judgment, as not belonging to the defendant or defendants, and consequently not liable to be sold in execution of a decree against him or them, the Court shall, subject to the proviso contained in the next succeeding Article, proceed to investigate the same in the same manner, and with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant or defendants as are contained in Articles 19 and 20 of this Chapter. And if it shall appear to the satisfaction of the Court that the land or other real or personal property so advertised to be sold in execution of the decree was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots, or cultivators, or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person or persons, the Judge shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other

real or personal property advertised to be sold in execution of the decree was in possession of the party against whom execution is sought, as and for his own property, and not for or on account of any other person or persons, or was in the possession of some other person in trust for him, or in the occupancy of ryots, or cultivators, or other persons paying rent to him at the time when the property was attached, the Court shall pass an order disallowing the claim, and shall direct the decree to be executed. The order which may be passed by the Court under this Article shall not be subject to appeal, but the party against whom the same may be given shall be at liberty to bring a suit to establish his right, at any time within one year from the date of the order.

31. The claim or objection shall in all cases be preferred or made at the earliest opportunity to the Court that shall have ordered the attachment; and if the property to which the claim or objection applies shall have been advertised for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Article; provided that, if it shall appear that the preferring or making the claim or objection has been designedly and unnecessarily delayed, with a view to obstruct the ends of justice, the sale shall not be postponed, and the claimant shall be left to prosecute his claim after the sale by a regular suit.

Of Sales in Execution of Decrees.

32. Sales in execution of decrees shall be conducted by the proper officer of the Court, and shall in all cases be made by public auction in manner hereinafter mentioned, except where the property to be sold shall consist of Government securities; and with respect to such securities, it shall be competent to the Court to authorise its officer, or any other person whom it may think proper to appoint, to sell and dispose of the same through a broker at the market rate of the day, and, if the endorsement of the party in whose name any such security is standing shall be required to transfer the same, to endorse such security thus— "A. B. by C. D. by order of" (as the case may be), and in the mean time, until such sale, to receive any interest which may become due thereon, and to sign receipts for the same; and any endorsement which shall be made as aforesaid shall be as effectual to pass the said securities, and to give a good title to the holder thereof, and any receipt which shall be signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or signed by the party himself or his constituted vakeel.

33. In all cases of intended sale, whether of moveable or immoveable property, in execution of any decree or other judicial process, where the property shall not consist of Government securities, and in all sales of Government securities, when the Court shall direct that the same be sold by public auction, a proclamation of the intended sale, with particulars of the time and place of sale, of the property to be sold, including the jummah of the estate, when the proper-

ty to be sold is an estate paying revenue to Government, or any portion of any such estate, and of the amount for the recovery of which the sale is ordered, shall be made in the current language of the country, and at Madras it shall also be made in the English language, at least thirty days before the appointed day of sale, exclusive of the day of sale, and of the date on which the proclamation may be ordered. Such proclamation shall be made in Madras, in the mode that has been usual in the case of sales by the Sheriff, and at other places in the usual mode, by beat of drum on the spot where the property is attached; and a written notification to the same effect shall be affixed in some conspicuous place in the Court of the Judge who shall have ordered the sale, and also in the Court of the Zillah Judge, where the Judge who ordered the sale is subordinate to the Zillah Judge. When the attachment shall have taken place at some place beyond the local limits of the jurisdiction of the Supreme Court, the written notification shall also be affixed in some conspicuous place within the town or village in which the attachment may take place, and the cutcherry of the Collector, and also in the Court of the local Moonsiff.

34. In all cases of a public sale of property in execution of a decree, it shall be clearly explained to the bidders at the sale that nothing is guaranteed to them in the land or other property sold, beyond the rights and interests therein of the individuals answerable for the amount of the decree or other process in execution of which the sale is made.

35. The usual process for attachment and sale in such cases, when the property to be attached consists of goods, chattels, or other personal estate other than debts, may either be issued successively or simultaneously, as the Judge directing the sale may in each instance think proper; but no sale shall in any instance take place without a previous proclamation for the period specified in Article 33 of this Chapter; and any material irregularity in the sale which may be established on investigation to the satisfaction of the Court by whom the sale may have been ordered, shall be sufficient to invalidate the sale, provided that an application objecting to the sale on the ground of such irregularity be made to the Court by the party objecting thereto, either in person or by vakeel, within one month after the sale.

36. If no such application as is mentioned in the last preceding Article be made within one month after the sale, or if such application shall be made and the objection shall be disallowed, the Judge shall pass an order confirming the sale; and in like manner, if such application shall be made, and if the objection be allowed, the Judge shall pass an order setting aside the sale for irregularity. The order which may be passed in either case, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final, and the party against whom the same has been given shall be precluded from bringing a fresh suit for establishing his claim.

37. After the sale shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest, to all intents and purposes whatsoever, any law or practice to the contrary thereof notwithstanding.

38. Where the property sold shall consist of goods, chattels, or other personal estate, of which seizure has been made, the same shall also be delivered to the purchaser or purchasers thereof; and where it shall consist of lands, houses, or other immovable property, the right, title, and interest of the defendant therein shall, as far as practicable, be delivered to the purchaser or purchasers thereof, by erecting a pole upon some place within or adjacent to the land or other immovable property, and proclaiming by beat of drum, at some convenient place or places, to the occupants thereof, that the right, title, and interest of the defendant or defendants therein has been transferred to the purchaser or purchasers.

39. Whenever a public sale is set aside as invalid under Article 35 of this Chapter, or on any account whatever, the purchaser shall be entitled to receive back his purchase money on restoring any property delivered over to him, with or without interest, in such manner as it may appear proper to the Court to direct in each instance.

Of the Execution of Decrees by Imprisonment.

40. When a defendant under a decree is committed to prison in execution thereof, the Judge shall fix whatever monthly allowance he shall think sufficient for his subsistence, not exceeding — per day, which shall be supplied by the party at whose instance the decree may have been executed to the proper officer of the Court, or of the gaol where the defendant may be in custody, by monthly payments in advance, on or before the 1st day of each month; the first payment to be made on the day of imprisonment for such portion of the current month as may remain unexpired.

41. A defendant will be released at any time on the decree being fully satisfied, or at the request of the person or persons at whose instance he may have been imprisoned, or on such persons omitting to pay the allowance as above directed for the space of twenty-four hours after it has become due; and further, his imprisonment on account of the decree which occasioned it shall not in any case exceed two years.

42. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the decree, and shall be recoverable from his property under the ordinary rules; but the defendant shall not be detained in custody or arrested on account of such disbursements.

43. Any person in confinement under a decree who is not entitled to the benefit of any Act for the relief of insolvent or bankrupt debtors in India, may at any time procure his enlargement by making an application to the Judge to that effect, and furnishing in writing a full and fair account of all his property, of whatever nature, whether in expectancy or in possession, and whether held exclusively by himself, or jointly with others, or by others in trust for him, and of the places respectively where such property is to be found, and moreover assigning the whole of such property to such person as the Court may direct, or such part thereof as may be sufficient for the satisfaction of the decree. In such case the Judge shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and call on him within a reasonable period, to be fixed by the Judge, to make proof of any fraudulent concealment or misrepresentation made by the defendant; and, on his failing to make such proof within the period specified, shall cause the defendant to be set at liberty.

44. But if the plaintiff shall within the time specified, or at any subsequent period, prove to the satisfaction of the Judge that the defendant, for the purpose of procuring his enlargement without satisfying the decree, wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith, the Judge shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if he shall think proper, send the defendant to the Magistrate, to be dealt with according to the provisions of the Penal Code.

45. A defendant once enlarged shall not again be imprisoned on account of the same decree except under the operation of the last preceding Article, but his property will continue liable, under the ordinary rules, to attachment and sale in satisfaction of the decree, until the same shall be fully made.

46. Whenever property is attached in execution of a decree, on the application of any person or persons, such person or persons shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Of the Enforcement of a Decree out of the Jurisdiction of the Court by which it was passed.

47. A decree or final order of any Civil Court within any part of the territories in the possession or under the Government of the East India Company which cannot be

enforced or executed within the jurisdiction of the Court by which it was passed, may be enforced or executed within the jurisdiction of another Court within any part of the said territories in the manner following.

48. The party may apply to the Court which shall have passed such decree for a copy thereof, and also for a certificate

How application is to be made for such execution. that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, also for a copy of any order for execution of such decree that may have been passed. The Court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate to be furnished; and the same shall be signed by the Judge or one of the Judges of the Court, and sealed with the seal of the Court.

49. If such Court shall be the principal Civil Court of original jurisdiction in the district, the Judge certifying decree how to describe himself. Judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

50. If the Court shall not be the principal Civil Court of original jurisdiction in the district, the copy of the judgment, and of the order for execution, if any, and

Certificate to pass from Chief Court of the district to Chief Court where it is to be executed. the certificate of the Judge, shall without delay be transmitted to the principal Civil Court of original jurisdiction in the district; and the Judge of such Court shall issue a certificate under his hand and the seal of the Court, verifying the signature of the Judge of the Court in which the decree shall have been given to the documents above mentioned; and in such certificate the Judge signing the same shall describe himself as the Judge of the principal Civil Court of the district, and shall also name the Court and the district.

51. All copies and certificates, which may be furnished by or transmitted to the principal Civil Court of original jurisdiction in the district in which such decree shall have been given, shall be transmitted by such Court without delay to the principal Civil Court of original jurisdiction in the district in which the party may wish to have the decree enforced or executed; and such Court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless the Court to which such documents shall be transmitted shall, under any peculiar circumstances, to be specified in an order, require the same.

52. The copy of any decree, or of any order for execution, when filed in the Court to which it shall be transmitted, for the purpose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may be enforced or executed by such Court, or any Court subordinate thereto, to which it may entrust the enforcement or execution thereof.

53. When application shall be made to any of the said Courts to enforce or execute the decree of any other Court

Execution how to be enforced by Court applied to.

as aforesaid, the Court to which the application shall be made or referred shall proceed to enforce or execute the same, according to its own rules in the like cases; and the lastmentioned Court shall take cognisance of and punish all wrongful acts or irregularities done or committed in enforcing or executing such decree; and all persons disobeying or obstructing the enforcement or execution of any such decree shall be punishable by such lastmentioned Court in the same manner as if the said decree had been pronounced by such Court.

54. An appeal shall lie from any order of a Court for enforcing or executing the decree of another Court, in the same manner, and subject to the same rules, as if the decree had been originally passed by the Court making such order.

Chapter VI. OF CONTEMPTS, AND DISOBEDIENCE OF ORDERS.

1. When any such offence as is described in Chapter XI. Clause 39 of the Penal Code is committed in contempt of the lawful authority of a Judge or Court of Justice, it shall be competent to such Judge or Court to punish the same as for a contempt of Court, and to adjudge the offender to punishment as authorised by the said Clause.

2. When any of the offences described in Chapter X. of the Penal Code is committed in contempt of the lawful authority of a Judge or Court of Justice, it shall be competent to such Judge or Court to punish the same as for a contempt of Court, and to adjudge the offender to punishment as authorised by the Clause applicable thereto.

3. Provided that Principal Sudder Ameens and Moonsiffs shall not exceed the powers of punishment conferred on them respectively as Judges of subordinate Criminal Courts, in fixing the measure of punishment for any of the offences referred to in the two last preceding Articles; and provided,

also, that when a person has been sentenced to punishment under the provisions of the last preceding Article, for refusing or omitting to do anything which he was required to do, it shall be competent to the Judge or Court of Justice to remit the punishment, on the submission of the offender to the order or requisition of such Judge or Court of Justice.

Chapter VII. REFERENCE TO ARBITRATION.

1. If the Parties to a suit are desirous that the matters in difference between them shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

2. The application shall be made by the parties in person, or through one of the vakeels of the made.

[]
Court, specially authorised in that behalf by an instrument in writing, which shall be presented to the Judge at the time of making the application, and shall be filed with the proceedings in the cause.

3. If the parties cannot agree with respect to the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, or, having accepted it, shall refuse to act, and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint some proper person or persons to be the arbitrator or arbitrators, as the case may be.

4. The Court shall fix such time as it may think reasonable for the delivery of the award, and shall, by an order under its seal, in which the time so fixed shall be specified, refer to the arbitrator or arbitrators the matters in difference in the suit between the parties.

5. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint their own umpire, or otherwise as may be agreed upon between the parties; or, if they cannot agree as to any of these particulars, as the Court itself may determine.

6. If, on the day mentioned in the summons, or at any subsequent hearing of the cause, it shall appear to the Judge that the matter in dispute between the parties consists wholly or in part of matters of mere account which cannot conveniently be tried before him, it shall be lawful for him, at his discretion, to order that such matter of account be referred to an arbitrator appointed by the parties, or to an officer of Court, or to some other proper person whom the Judge may think fit to appoint, upon such terms as to costs and the remuneration of the arbitrator, or otherwise, as the Judge shall think reasonable.

7. If it shall appear to the Judge that the allowance or disallowance of any particular item or items in such account depends upon a question of law or fact fit to be decided by the Court, it shall be lawful for the Judge to decide such question of law or fact, and his decision thereupon shall be taken and acted upon by the arbitrators as conclusive.

8. Whenever the parties to any deed or instrument in writing shall agree that any then existing or future differences between them or any of them shall be referred to arbitration, and any one or more of the parties so agreeing, or any person claiming through or under him or them, shall nevertheless commence any suit against the other party or parties, or against any person or persons claiming through or under him or them, in respect of the matters so agreed to be referred, or any of them, it shall be lawful for the Court in which the suit is brought, on application by the defendant or defendants at his or their first appearance before the Judge, in

obedience to any summons that may be issued in such suit, upon being satisfied that no sufficient reason exists why such matters cannot be or ought not to be referred to arbitration according to such agreement as aforesaid, and that the defendant was at the time of the commencement of such suit and still is ready and willing to join and concur in all acts necessary and proper for causing such matters so to be decided by arbitration, to make an order for staying all proceedings in such suit, on such terms as to costs or otherwise as to such Court may seem fit: provided always, that any such order may at any time thereafter be discharged or varied, as justice may require.

9. Upon any reference by an order of Court, whether compulsory or by consent, the arbitrator or arbitrators and umpire shall have all the like powers as the Court would have in the like circumstances; and the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators, or umpire, or the parties, may desire to have examined, as the Court is authorised to issue in causes tried before it; and persons not attending in consequence of such process, or making any default, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the arbitrator or arbitrators, or umpire, during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by orders made by the arbitrator or arbitrators, or umpire, as they would incur for the same offences in suits tried before the Court: provided that the arbitrator or arbitrators, or umpire, shall report the order, with the reason for making it, to the Court, and obtain its consent thereto, which is to be signified by the Judge's signing the order.

10. In cases where the arbitrators or umpire shall not have been able to complete the award within the period specified in the order, from want of the necessary evidence or information, or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to any party or to the umpire a notice in writing stating that they cannot agree.

11. If, in any case of reference to arbitration by an order of Court, the appointed arbitrator or arbitrators, or umpire, shall die, or refuse or become incapable to act, it shall be lawful for the Court, on the application of the parties, or any of them, to appoint a new arbitrator or arbitrators, or umpire, in the place or stead of the person or persons so dying or refusing or becoming incapable to act; and where two arbitrators are at liberty by the terms of the order of reference to appoint an umpire, and do not appoint an umpire, then, and in every such instance, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven clear days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party, having served such notice as aforesaid, upon proof

to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Article, the arbitrator or arbitrators, or umpire so appointed, shall have the like power to act in the reference as if their name or names had been inserted in the original order of reference.

12. When a final award in a cause shall be made, either by the arbitrators or umpire, it shall be submitted to the Court, under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause.

13. It shall be lawful for the arbitrator or arbitrators and umpire, upon any reference, by an order of Court, whether compulsory or by consent of parties, if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

14. In any case where reference shall be made to arbitration as aforesaid, the Court shall have power at any time and from time to time to remit the matters referred, or any or either of them, to the reconsideration and redetermination of the same arbitrator or arbitrators, or umpire, upon such terms as to costs and otherwise as to the said Court may seem proper.

15. If the Court shall not see cause to remit the matters referred for reconsideration in manner aforesaid, it shall pronounce judgment conformable to the award, unless the same shall be set aside, or to its own opinion on the special case, if the award shall have been submitted to it in the form of a special case, and the decree shall be carried into execution in the same manner as other decrees of the Court.

16. All applications to set aside any award made on a compulsory reference or a reference by consent of the parties, shall be made within ten days after the same has been submitted to the Court; and if no such application is made, or if no rule is granted thereon, or if any rule granted thereon is afterwards discharged, judgment shall be pronounced as mentioned in the last preceding Article, and such judgment shall be final between the parties.

Chapter VIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

How Questions may be raised for the Decision of a Civil Court by any Persons interested.

1. Parties interested, or claiming to be interested in the decision of any question or questions of fact, or law or equity, may enter into an agreement, which shall not be subject to any stamp duty, that upon the finding of a Judge, in the affirmative or negative, of such question or questions of fact, or of law or

equity, a sum of money, fixed by the parties, or to be determined by the Judge, shall be paid by one of the parties; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act or acts, or shall refrain from doing or performing some particular act or acts specified in the agreement. Where the agreement is for the delivery of some property, moveable or immoveable, or for the doing or performing, or the refraining to do or perform any particular act or acts, the estimated value of the property to be delivered, or to which the act or acts specified may have reference, shall be stated in the agreement.

2. The agreement may be filed in any Court having jurisdiction in the matter, with the proper officer, and when so filed shall be numbered and registered as a cause between some or one of the parties interested, or claiming to be interested, as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; but it shall not be necessary to issue any process for summoning the defendant.

3. After the agreement shall have been filed, all the parties thereto shall be subject to the jurisdiction of the Court, and shall be bound by the statements therein.

4. The case shall be set down for hearing as an ordinary suit; and if the Judge shall be satisfied, after an examination of the parties or their vakeels, or taking such evidence as he may deem proper, that the agreement was duly executed by the parties, and that they have a *bona fide* interest in the question or questions of fact, or of law or equity stated therein, and that the same is or are fit to be tried or decided, he shall proceed to record and try, or hear the same, and deliver his finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon his finding or deciding upon the question or questions of fact, or of law or equity, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement; and upon the judgment which shall be so given decree shall follow, and may be executed in the same way as if the judgment had been pronounced in a contested suit.

Of Special Cases for the Opinion of the Sudder Court.

5. Persons interested or claiming to be interested in any question as to the construction of any Act of Parliament, or any Regulation of the Madras Code, or Act of the Council of India, will, deed, or other instrument in writing, or any article, clause, matter, or thing therein contained, or as to the title or evidence

of title to any real or personal estate contract-
ed to be sold or otherwise dealt with, or as to
the parties to, or the form of any deed or in-
strument for carrying any such contract into
effect, or as to any other matter or thing,
may, with the consent of a Judge of the Sud-
der Court, concur in stating the same in the
form of a special case for the opinion of the
Court; and all executors, administrators, and
trustees may concur in such case.

6. Every such special case shall concisely
state such facts and
documents as may be
necessary to enable the Court to decide the
question raised thereby, and shall be signed
by the parties or their vakeels.

7. The special case shall be filed with
the proper officer of the
Court, and shall be
numbered and register-
ed as a cause between some or one of the
parties interested or claiming to be interested
as plaintiffs or plaintiff, and the others or other
of them as defendants or defendant; but it
shall not be necessary to issue any process
for summoning the defendants or defendant.

8. After the special case shall have been
filed, all the parties
thereto shall be subject
to the jurisdiction of the
Court, and such of the
parties as are legally competent to bind them-
selves shall, for the purposes of such special
case, be bound by the statements therein; and
the parties who are not legally competent to
bind themselves shall also be bound by the
statements therein, if the Court shall think
proper so to direct, after taking such precau-
tions as may be deemed necessary for protect-
ing the rights of such parties.

9. The special case shall be set down for
hearing as an ordinary
suit, and the Court, af-
ter hearing the parties
or their vakeels, shall proceed to determine
the questions raised therein, or any of them,
and to declare its opinion thereon, and, so far
as the case shall admit of the same, upon the
right involved therein, without proceeding to
administer any relief consequent upon such
declaration; and every such declaration of the
Court shall have the same force and effect as
such declaration would have had, and shall
be as binding to the same extent as such de-
claration would have been, if contained in a
judgment pronounced in a contested suit.
Provided that if, upon the hearing of such
special case as aforesaid, the Court shall be of
opinion that the questions raised thereby, or
any of them, cannot properly be decided upon
such case, the Court may refuse to decide
the same.

Chapter IX.

OF APPEALS.

Appeals from Final Decrees.

1. An appeal shall lie, as hereinafter pro-
vided, from the deci-
sions of the Judge,

Judges, Principal Sudder
Ameens, and Moonsiffs.

the Principal Sudder
Ameen, and of the
Moonsiff, in all suits in

which the property, or possession, or right of
occupancy of land or other real property, or
the right to receive rent or profit issuing out of
land or other real property, or the right to
hold land or other real property exempt from
the payment of rent or revenue, or anything
in the nature thereof, or the right to hold land
or other real property subject to the payment
of a fixed annual sum on account of rent or
revenue, or anything in the nature thereof, or
the right to any benefits, liberties, or privileges
derived out of or affecting any landed or other
real property, or the right to receive or collect
any customary or other payments or gratuities
on any account whatsoever, or the title to any
office, or to any trust or special privileges, or
to any toll, fair, market, or franchise, or any-
thing in the nature thereof respectively, shall
be in question; and in all suits in which the
right of inheritance from, or succession to, any
person, or the validity of any marriage, divorce,
will, or authority to adopt, or of any decree, be-
quest, or limitation under any will or settle-
ment, or the condition or status of any person
in respect of relationship, religion, caste, or
otherwise, or the custody or guardianship of
any person, may be disputed; and in all suits
for any malicious prosecution, or for any libel
or slander, or for criminal conversation, or for
seduction, or for breach of promise of marriage.

2. An appeal shall also lie from all other
decisions of the Judge,
the Principal Sudder
Ameen, and Moonsiff, except in suits in which
the amount claimed does not exceed the sum
of fifty Rupees.

3. In suits in which the amount claimed,
or the value of the pro-
perty claimed, does not
exceed the sum of 1000
Rupees, the appeal from
the decision of the Prin-
cipal Sudder Ameen, or
Moonsiff, as the case may be, shall, be to the
Zillah Judge; in suits above that sum to the
Sudder Court.

4. The decision of the Judge in appeals
from the decision of
the Principal Sudder
Ameen, or Moonsiff,
shall be final; provided,
however, that it shall be competent to the
Judge, at the time of deciding an appeal from
the judgment of a Principal Sudder Ameen or
Moonsiff, to record his opinion, certifying in
his judgment his reasons for the same, that
the case is one for revision by the Sudder
Court, and when he shall have so certified,
the Sudder Court shall admit a special appeal
from the decision of the Zillah Judge, in the
event of either of the parties making applica-
tion to that effect.

In original suits the ap-
peal from the Zillah Judge
shall be to the Sudder
Court.

5. The appeal from
the decisions of the
Judge, in original suits,
shall be to the Sudder
Court.

How Appeals are to be preferred.

6. The appeal shall be made in the form

Appeal to be preferred by a memorandum, to be filed within specified time.

of a memorandum as hereinafter prescribed, which may be presented in the Appellate

Court, or in the Court in which the decision objected to was passed, for transmission to the Appellate Court. In either case, the memorandum must be presented within the times hereinafter specified, unless the appellant shall, by a petition to the Appellate Court, show sufficient cause for not having presented it within such limited periods; that is to say, within thirty-one days if the appeal be to the Zillah Judge, or be to the Sudder Court from a decision of a Court of original jurisdiction constituted by one or more of its own Judges, and within ninety-one days if the appeal be to the Sudder Court from the decision of a Zillah Judge, Principal Sudder Ameen, or Moon-siff; the days to be reckoned in all the cases as immediately following and exclusive of the day on which judgment was pronounced.

7. An application for an extension of the

Time may be extended by an application.

time for presenting a memorandum of appeal may be made directly

to the Appellate Court, or through the intervention of the Lower Court, at the option of the applicant. If the application for extension of time be made to the Lower Court, that Court shall record the reasons assigned for the application, and shall transmit a copy of its proceedings to the Appellate Court.

8. Every memorandum of appeal shall set

What the memorandum is to contain.

forth concisely, and under distinct heads, grounds of objection to

the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. But the appellant shall not be tied down to the objections set forth by him in his memorandum of appeal.

The memorandum of appeal shall be in the

Form of memorandum.

following form, or to the following effect:—

Memorandum of Appeal.

(Name, &c. as in Register.) Plaintiff.

(Name, &c. as in Register) Defendant.

[Name of Appellant] Plaintiff [or Defendant] above named appeals to the Sudder Court at Madras [or Zillah Court at as the case may be], against the decree of the Moon-siff, or Principal Sudder Ameen, of [or as the case may be], in the above cause, dated the day of for the following among other reasons.

9. If the memorandum of appeal be pre-

Memorandum to be forwarded to the Appellate Court.

sented in the Court in which the decree objected to was passed, such lastmentioned

Court shall forthwith forward the same to the Appellate Court, with an endorse-

ment thereon of the date on which it was presented.

10. Within one month from the date on

What proceedings to be forwarded to the Appellate Court, and when.

which the memorandum of appeal shall be presented in the Lower Court, or one month

from the date on which intimation shall be received by the Lower Court from the Appellate Court, that the memorandum of appeal has been presented in the Appellate Court, unless the Appellate Court shall think proper to enlarge the time, and then within such enlarged time, the Judge of the Lower Court shall, except as provided in the next succeeding Article, certify under his hand and the seal of his Court the record duly made up and authenticated, including authenticated copies of all his own material proceedings in the cause, and the original depositions, exhibits, and every original paper read in the cause, together with the written statements, if any, that may have been presented by the parties, or any of them, and received and recorded by the Judge, and shall transmit the record so made up to the Appellate Court. Previous to transmitting the abovementioned papers to the Appellate Court, the Judge of the Lower Court shall cause true and faithful copies of all the originals to be made out and authenticated by the proper officer of his Court, and deposited in the Court in lieu of the originals. The copies shall be records of the Court, and shall be received in evidence in any other Court in the same way as originals. In cases where any original deposition or other original proceedings or matter whatsoever shall have been previously entered in a book, which may likewise contain other proceedings in other distinct cases, or any other matter, so that such original papers cannot be transmitted to the Appellate Court without the other proceedings or matters, the Judge of the Lower Court, within the time and in the manner before directed, shall certify a true and authentic copy of such original papers, and that the original of each copy so transmitted is entered in such book. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book or proceedings of the Court, the copy shall have the force and effect of the original, and the Judge shall transmit a copy of it to the Appellate Court, and shall in like manner certify that the original, after due search, cannot be found. A memorandum of all expenses which may be incurred in the preparation of copies of papers or otherwise, in or about the making up and transmitting the record, shall be forwarded therewith to the Appellate Court, and shall be considered costs in the cause.

11. In appeal from the Principal Sudder

In certain appeals to the Sudder Court the proper officer to attend in the Appellate Court with the original record of the case.

Ameen and Moon-siff to the Zillah Judge, the proper officer shall attend in the Appellate Court, from time to time, as may be required, with the original record of the proceedings in the cause.

Of Staying and Executing Decrees under Appeal.

12. When any party or parties appealing

When and on what terms execution of decree may be stayed.

is or are directed to pay any sum of money, or to perform any duty, or when the decree is for the possession of land or any other property, real or personal, the Court whose judgment is appealed from shall and is hereby empowered to award that its judgment shall be carried into execution, or that sufficient security shall be given for the performance of such judgment; provided always, that where the Court of original jurisdiction shall think fit to order the judgment to be executed, security shall be taken from the other party or parties for the due performance of such order or judgment as may be passed in the Court of Appeal. But this decision shall itself be subject to appeal.

Of Procedure in Appeals from final Decrees.

13. When a memorandum of appeal shall

How the appeal is to be entered.

have been presented in or transmitted to an Appellate Court, the clerk (or proper officer) of the Appellate Court shall endorse thereon the date of presentment, if it was presented in the Appellate Court, or the date of receipt, if it was transmitted from the Lower Court, and shall register the appeal in a book to be kept for the purpose, and called the register of appeals.

14. The register shall be kept in the form

Form of the register.

contained in the Schedule (B) hereunto annexed; and a certified copy of the register, under the seal of the Court, shall be received in evidence in all Courts of Justice in India.

15. It shall not be necessary in any Court

Court of Appeal may, at its discretion, require security for costs from appellant.

of Appeal to take any security for costs, but it shall be in the discretion of every such Court of Appeal to demand security for costs from the appellant, or not, as it shall see fit, before the respondent is called upon to answer.

16. A day shall be fixed by the Appellate

Day to be fixed for hearing the appeal.

Court for the hearing and disposal of the appeal; which day shall not be earlier, in cases in which a record of the suit shall be transmitted by the Lower Court, than forty-two days from the day on which the record may have been received in the Appellate Court, and shall not be earlier, in cases appealable to the Sudder Court, when the officer is required to attend the Appellate Court with the original record of the suit, than twenty-one days from the presentment of the memorandum of appeal, but shall otherwise be as early, in all cases, as can be conveniently fixed, with a due regard to the state of business in the Court; the days to be reckoned in all the cases as exclusive of the day of hearing, and of the day on which the record may have been received,

or the memorandum of appeal presented in the Appellate Court. Notice of the day which has been fixed for the hearing of the appeal shall be sent by the proper officer of the Appellate Court to the proper officer of the Lower Court from the decree of which the appeal has been preferred, and shall be served on the appellant and respondent, in the same way as hereinbefore provided for in respect to the service of a summons. The notice to the appellant shall contain an additional intimation, that if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, either in person or by an advocate, attorney, or vakeel of the Appellate Court, his appeal will be dismissed for want of prosecution. And the notice to the respondent shall contain an intimation, that if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence.

17. On the day in that behalf mentioned in

The parties to be in attendance on day so fixed. the notices, and unless the Court shall otherwise direct, from day

to day, until the cause is called on, the parties, appellant and respondent, shall be in attendance in the Appellate Court, in person or by an advocate, attorney, or vakeel of the Court, duly empowered in manner hereinbefore mentioned, to represent them in all matters relating to the prosecution or defence of the appeal.

18. If, on the day fixed for the hearing of

Consequences of non-appearance. the appeal, or on any other day subsequent

thereto on which the cause may be called on, the appellant shall not appear in person, or by an advocate, attorney, or vakeel of the Court, the appeal shall be dismissed for default. If the appellant appears in person, or by advocate, attorney, or vakeel, and the respondent shall not appear in person, or by advocate, attorney, or vakeel, the appeal shall be heard *ex parte* in his absence.

19. Where an appeal is dismissed for de-

When an appeal is dismissed, intimation to be sent to the Lower Court. fault, an intimation of the dismissal shall be sent to the Court of

original jurisdiction, and the costs of preparing copies of papers, and making up and transmitting the record, may be realised from the appellant, under an order of that Court, to be enforced in the same manner as a decree of Court.

20. In all cases in which an appeal shall

How an appeal dismissed for default may be restored. be dismissed for default of prosecution, it shall be competent to the

appellant to apply within reasonable time to the Appellate Court, for the readmission of his appeal. The application shall be accompanied with a certificate from the Court of original jurisdiction that the costs mentioned in the preceding Article, when ordered to be realised from the appellant, have been fully paid and satisfied; and if the Appellate Court shall think proper to grant such application, a day shall be thereupon fixed for the hearing of the appeal, and a fresh notice shall be issued to

the respondent to be served in the same way as the first notice, and with the like additional intimation as is hereinbefore provided; but it shall not be necessary to issue or serve any notice on the appellant.

21. The Appellate Court, after hearing the cause, shall proceed to give its judgment in the same manner as hereinbefore prescribed in regard to the judgment of Courts of original jurisdiction, for confirming, or reversing, or modifying and altering the decree of the Lower Court, as the Appellate Court shall think proper.

22. No decision shall be reversed or altered, nor shall any case be referred back to the Court of original jurisdiction, on account of any error, defect, or irregularity not affecting the merits of the case.

23. If the Court of original jurisdiction shall have disposed of the case upon any preliminary point, so as to exclude any evidence of fact which shall appear to the Court of Appeal essential to the rights of the parties, and the decree of the Lower Court shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remit the case to the Lower Court, and cause the papers in the suit, together with a copy of the decree in appeal, to be transmitted to such Lower Court, with directions to proceed in the investigation of the merits of the case, and pass a decree therein.

24. It shall not be competent to the Appellate Court to remand a case for a second decision by the Court of original jurisdiction, except as provided in the preceding Article.

25. When there is sufficient evidence upon the record of the Lower Court to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

26. It shall not be competent to the parties in an appeal to produce additional evidence, whether of exhibits or witnesses; but if it appears that the Lower Court refused to admit competent evidence, or if the Appellate Court itself requires the production of exhibits or witnesses, as necessary to enable it to pronounce a satisfactory judgment, or if any other substantial cause demands a deviation from the ordinary rule, the Court may allow additional exhibits to be received, and the same and other witnesses to be examined; provided that whenever this power is exercised, the reasons for exercising it be recorded on the proceedings by the Appellate Court.

27. Whenever additional evidence is permitted to be received, it shall be competent to the Court of Appeal to take such evidence before itself, or to require the Lower, or any other Court, or to empower any person, to take such evidence; and it shall also be competent to the Court of Appeal to prescribe the mode by which such evidence shall be taken; and the Court of Appeal shall be at liberty to proceed by all or any of the modes aforesaid.

28. In all cases where additional evidence is permitted to be taken, the Court shall define the point or points to which the evidence is to be confined, and record the same in the minutes of the proceedings.

29. The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the cause, examining the parties or their vakeels, and awarding costs, or otherwise, as are hereinbefore contained in regard to Courts of original jurisdiction.

30. The judgment of the Appellate Court shall in all cases be pronounced in open Court, and, after being written out, shall be signed by the Judge or Judges. The judgment shall be written out in the English language; and where that language is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into the languages so being in such ordinary use, and the translation shall be signed by the Judge.

31. The decree of the Appellate Court shall bear date the day on which the judgment was passed, and shall contain the number of the suit, the names and description of the parties, appellant and respondent, the memorandum of appeal, a list of any additional exhibits that the Appellate Court may have allowed to be produced, and the names of any witnesses that it may have allowed to be examined. It shall also contain an exact copy of the ordering part of the judgment, or a translation thereof in the language in ordinary use in proceedings before the Court. The decree shall be sealed with the seal of the Court, and signed by the Judge or Judges who passed it, and copies shall be furnished to the parties in the same manner as hereinbefore provided for in regard to the decrees of Courts of original jurisdiction.

32. A copy of the decree, certified by the clerk or proper officer of the Appellate Court, and sealed with the seal of the Court, shall be transmitted to the clerk or proper officer of the Court of original jurisdiction which passed the first decree in the suit appealed from, and shall by him be filed with the original proceedings in the cause; and an entry of the

Of Staying and Executing Decrees under Appeal.

12. When any party or parties appealing

When and on what terms execution of decree may be stayed.

is or are directed to pay any sum of money, or to perform any duty, or when the decree is for the possession of land or any other property, real or personal, the Court whose judgment is appealed from shall and is hereby empowered to award that its judgment shall be carried into execution, or that sufficient security shall be given for the performance of such judgment; provided always, that where the Court of original jurisdiction shall think fit to order the judgment to be executed, security shall be taken from the other party or parties for the due performance of such order or judgment as may be passed in the Court of Appeal. But this decision shall itself be subject to appeal.

Of Procedure in Appeals from final Decrees.

13. When a memorandum of appeal shall

How the appeal is to be entered.

have been presented in or transmitted to an Appellate Court, the clerk (or proper officer) of the Appellate Court shall endorse thereon the date of presentment, if it was presented in the Appellate Court, or the date of receipt, if it was transmitted from the Lower Court, and shall register the appeal in a book to be kept for the purpose, and called the register of appeals.

14. The register shall be kept in the form

Form of the register.

contained in the Schedule (B) hereunto annexed; and a certified copy of the register, under the seal of the Court, shall be received in evidence in all Courts of Justice in India.

15. It shall not be necessary in any Court

Court of Appeal may, at its discretion, require security for costs from appellant.

of Appeal to take any security for costs, but it shall be in the discretion of every such Court of Appeal to demand security for costs from the appellant, or not, as it shall see fit, before the respondent is called upon to answer.

16. A day shall be fixed by the Appellate

Day to be fixed for hearing the appeal.

Court for the hearing and disposal of the appeal; which day shall not be earlier, in cases in which a record of the suit shall be transmitted by the Lower Court, than forty-two days from the day on which the record may have been received in the Appellate Court, and shall not be earlier, in cases appealable to the Sudder Court, when the officer is required to attend the Appellate Court with the original record of the suit, than twenty-one days from the presentment of the memorandum of appeal, but shall otherwise be as early, in all cases, as can be conveniently fixed, with a due regard to the state of business in the Court; the days to be reckoned in all the cases as exclusive of the day of hearing, and of the day on which the record may have been received,

or the memorandum of appeal presented in the Appellate Court. Notice of the day which has been fixed for the hearing of the appeal shall be sent by the proper officer of the Appellate Court to the proper officer of the Lower Court from the decree of which the appeal has been preferred, and shall be served on the appellant and respondent, in the same way as hereinbefore provided for in respect to the service of a summons. The notice to the appellant shall contain an additional intimation, that if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, either in person or by an advocate, attorney, or vakeel of the Appellate Court, his appeal will be dismissed for want of prosecution. And the notice to the respondent shall contain an intimation, that if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence.

17. On the day in that behalf mentioned in

The parties to be in attendance on day so fixed.

the notices, and unless the Court shall otherwise direct, from day to day, until the cause is called on, the parties, appellant and respondent, shall be in attendance in the Appellate Court, in person or by an advocate, attorney, or vakeel of the Court, duly empowered in manner hereinbefore mentioned, to represent them in all matters relating to the prosecution or defence of the appeal.

18. If, on the day fixed for the hearing of

Consequences of non-appearance.

the appeal, or on any other day subsequent thereto on which the cause may be called on, the appellant shall not appear in person, or by an advocate, attorney, or vakeel of the Court, the appeal shall be dismissed for default. If the appellant appears in person, or by advocate, attorney, or vakeel, and the respondent shall not appear in person, or by advocate, attorney, or vakeel, the appeal shall be heard *ex parte* in his absence.

19. Where an appeal is dismissed for default, an intimation of

When an appeal is dismissed, intimation to be sent to the Lower Court.

the dismissal shall be sent to the Court of original jurisdiction, and the costs of preparing copies of papers, and making up and transmitting the record, may be realised from the appellant, under an order of that Court, to be enforced in the same manner as a decree of Court.

20. In all cases in which an appeal shall

How an appeal dismissed for default may be restored.

be dismissed for default of prosecution, it shall be competent to the appellant to apply within reasonable time to the Appellate Court, for the readmission of his appeal. The application shall be accompanied with a certificate from the Court of original jurisdiction that the costs mentioned in the preceding Article, when ordered to be realised from the appellant, have been fully paid and satisfied; and if the Appellate Court shall think proper to grant such application, a day shall be thereupon fixed for the hearing of the appeal, and a fresh notice shall be issued to

the respondent to be served in the same way as the first notice, and with the like additional intimation as is hereinbefore provided; but it shall not be necessary to issue or serve any notice on the appellant.

21. The Appellate Court, after hearing the cause, shall proceed to give its judgment in the same manner as hereinbefore prescribed in regard to the judgment of Courts of original jurisdiction, for confirming, or reversing, or modifying and altering the decree of the Lower Court, as the Appellate Court shall think proper.

22. No decision shall be reversed or altered, nor shall any case be referred back to the Court of original jurisdiction, on account of any error, defect, or irregularity not affecting the merits of the case.

23. If the Court of original jurisdiction shall have disposed of the case upon any preliminary point, so as to exclude any evidence of fact which shall appear to the Court of Appeal essential to the rights of the parties, and the decree of the Lower Court shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remit the case to the Lower Court, and cause the papers in the suit, together with a copy of the decree in appeal, to be transmitted to such Lower Court, with directions to proceed in the investigation of the merits of the case, and pass a decree therein.

24. It shall not be competent to the Appellate Court to remand a case for a second decision by the Court of original jurisdiction, except as provided in the preceding Article.

25. When there is sufficient evidence upon the record of the Lower Court to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

26. It shall not be competent to the parties in an appeal to produce additional evidence, whether of exhibits or witnesses; but if it appears that the Lower Court refused to admit competent evidence, or if the Appellate Court itself requires the production of exhibits or witnesses, as necessary to enable it to pronounce a satisfactory judgment, or if any other substantial cause demands a deviation from the ordinary rule, the Court may allow additional exhibits to be received, and the same and other witnesses to be examined; provided that whenever this power is exercised, the reasons for exercising it be recorded on the proceedings by the Appellate Court.

27. Whenever additional evidence is permitted to be received, it shall be competent to the Court of Appeal to take such evidence before itself, or to require the Lower, or any other Court, or to empower any person, to take such evidence; and it shall also be competent to the Court of Appeal to prescribe the mode by which such evidence shall be taken; and the Court of Appeal shall be at liberty to proceed by all or any of the modes aforesaid.

28. In all cases where additional evidence is permitted to be taken, the Court shall define the point or points to which the evidence is to be confined, and record the same in the minutes of the proceedings.

29. The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the cause, examining the parties or their vakeels, and awarding costs, or otherwise, as are hereinbefore contained in regard to Courts of original jurisdiction.

30. The judgment of the Appellate Court shall in all cases be pronounced in open Court, and, after being written out, shall be signed by the Judge or Judges. The judgment shall be written out in the English language; and where that language is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into the languages so being in such ordinary use, and the translation shall be signed by the Judge.

31. The decree of the Appellate Court shall bear date the day on which the judgment was passed, and shall contain the number of the suit, the names and description of the parties, appellant and respondent, the memorandum of appeal, a list of any additional exhibits that the Appellate Court may have allowed to be produced, and the names of any witnesses that it may have allowed to be examined. It shall also contain an exact copy of the ordering part of the judgment, or a translation thereof in the language in ordinary use in proceedings before the Court. The decree shall be sealed with the seal of the Court, and signed by the Judge or Judges who passed it, and copies shall be furnished to the parties in the same manner as hereinbefore provided for in regard to the decrees of Courts of original jurisdiction.

32. A copy of the decree, certified by the clerk or proper officer of the Appellate Court, and sealed with the seal of the Court, shall be transmitted to the clerk or proper officer of the Court of original jurisdiction which passed the first decree in the suit appealed from, and shall by him be filed with the original proceedings in the cause; and an entry of the

judgment of the Appellate Court shall be made in the original register of the suit.

33. Application for execution of the decree of an Appellate Court

How to be executed. shall be made to the Court of original jurisdiction which passed the first decree or order appealed from, and shall be enforced and executed by the Court which passed the first decree or order appealed from, in the manner and according to the rules hereinbefore contained for the enforcement and execution of original decrees or orders made by such lastmentioned Court.

Appeals from Orders.

From what orders appeals shall lie. 34. Appeals shall lie from the orders of Civil Courts as follows :—

(1st.) In all cases whatsoever, where the order is for the punishment of a contempt committed in the presence of the Court.

(2nd.) In all other cases whatsoever, unless otherwise specially provided for, if the decree in the suit be appealable.

(3rd.) In all other cases, unless otherwise specially provided for, whether the decree in the suit be appealable or not, provided that the person against whom the order has been passed is not a party to the suit.

35. The appeal from an order shall always be made to the Court to which the appeal should be made. to which the decree in the suit in which the order may be passed is appealable. If the order be passed in a suit in which the decree is not appealable, or in a judicial proceeding which cannot properly be titled as of any suit, the appeal from the order of a Moonsiff or Principal Sudder Ameen shall be made to the Zillah Judge, and the appeal from the order of a Zillah Judge shall be made to the Sudder Court.

36. The appeal shall not in any case stop the proceedings in the Lower Court. The appeal not to stay proceedings.

Of Procedure in Appeals from Orders.

37. The procedure in appeals from orders shall be in all respects the same as in appeals from final decrees, except as hereinafter provided. Procedure, how it differs from the procedure in appeals from decrees.

(1.) The register shall be kept in the form contained in the Schedule (C) hereunto annexed.

(2.) The memorandum of appeal shall in all cases be presented in the Court in which the order objected to was passed, within five days immediately following, and exclusive of the day on which the order was pronounced.

(3.) Where the appeal is from the order of a Zillah Judge, Principal Sudder Ameen, or Moonsiff, the memorandum of appeal shall be accompanied with a list of the papers or depositions of which the appellant desires that

copies should be transmitted to the Appellate Court.

(4.) The memorandum of appeal shall be transmitted to the Appellate Court within eight days from the date of presentment; and where the appeal is from the order of a Zillah Judge, Principal Sudder Ameen, or Moonsiff, authenticated copies of the order appealed against, and of the papers and depositions mentioned in the list accompanying the memorandum, shall be transmitted to the Appellate Court with the memorandum of appeal.

(5.) At the expiration of twenty days after the presentment of a memorandum of appeal in a case appealable to the Zillah Court, and thirty days after its presentment in a case appealable to the Sudder Court, from the order of a Zillah Judge, Principal Sudder Ameen, or Moonsiff, and ten days in a case appealable to the Sudder Court from an order of a Court of original jurisdiction constituted by one or more of its own Judges, the case shall be set down for hearing in the Appellate Court, and if the appellant does not appear on any day thereafter that the case may be called on for hearing, it shall be struck out of the file; but the Appellate Court shall have power to restore the case to the file, if sufficient cause to its satisfaction for so doing be shown within a reasonable time.

(6.) It shall not be necessary for the Appellate Court to call for any further papers, unless it shall think proper.

(7.) It shall not be necessary to give any notice to the respondent.

(8.) The judgment may be delivered orally, and reduced to writing in the language of the Court, by an officer of the Court, or otherwise as the Court may think proper in each particular case.

Chapter X.

REVIEW OF JUDGMENT.

1. Any persons considering themselves aggrieved by a decree of any Court of original jurisdiction, from which no appeal shall have been preferred to a superior Court—or by a decree of a Zillah Judge in appeal, from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal, having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who, from the discovery of new matter or evidence which was not within their knowledge, or could not be adduced by them at the time when the decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them—may apply in person or by advocate, attorney, or vakeel, for a review of judgment by the Court which passed the decree.

Within what time the application should be made. The application shall be made within three months from the date of

The order of the Court for granting or refusing the review is final.

either case, whether for rejecting the application or granting the review, shall be final.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

the Court to which the application for a review of its judgment has been presented be the Sudder Court, whenever the Judge or Judges who may have

passed the decree, or, if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering his order or opinion upon the same, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

3. In all cases in which an application for a review of judgment may be granted by any Court, the Court shall give such order, in regard to the summoning of the absent party or parties, and hearing of the cause, as it may deem proper in the circumstances of the case.

4. The Principal Sudder Ameens and Moonsiffs shall, at the close of each month send to the Judge of the Court the following Abstract statements of reviews admitted to be forwarded to Superior Courts.

Abstract statements of reviews admitted to be forwarded to Superior Courts.

cases in which they may have admitted a review of judgment, with a statement of the grounds on which the review has been admitted, and the Zillah Judge shall in like manner, at the close of each month, send to the Sudder Court a list of the cases in which he may have admitted a review of judgment, together with the grounds on which the review has been admitted, and the Judge shall at the same time transmit to the Sudder Court any lists which he may have received from the Principal Sudder Amcens and Moonsiffs, of cases in which they may have admitted a review of judgment, together with such remarks as he may think proper thereon.

SCHEDULE A, referred to in the foregoing Scheme of Procedure.

holden at

COURT of the

REGISTER OF CIVIL SUITS in the Year 18

[illegible]

SCHEDULE B to the foregoing Scheme of Procedure.
 SUDDER COURT of MADRAS [or Zillah Court at
 REGISTER OF APPEALS FROM FINAL DECREES in the Year 18

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Date of Memorandum, and where presented.	No. of Appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment.		
		Name.	Trade or Quality.	Residence.	Name.	Trade or Quality.	Residence.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE C to the foregoing Scheme of Procedure.
 SUDDER COURT of MADRAS [or Zillah Court at
 REGISTER OF APPEALS FROM ORDERS in the Year 18

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Date of Memorandum.	No. of Appeal.	Name of Appellant.	Name of Respondent.	Order appealed from.		Order in Appeal.	
				Of what Court.	Substance of Order.	Confirmed, reversed, or altered.	Date.

W. MORGAN,
 Clerk of the Council.